# Notes

### Update Notes

#### This file was updated before Ohio Valley to include additional evidence and blocks. All cards in this file are highlighted; it should replace your existing version of the file in your Team Tub. Make sure you copy any additional blocks you’ve written in your personal version of the file into this updated version.

#### There have been many new articles written about Gross because early December is the anniversary of his incarceration in Cuba. A well-prepared aff team will have recent evidence about the Cuban 5 — there is a brief block to “prefer the most recent evidence” for that argument in this file.

#### You should review the file and read the new evidence. This counterplan should be a very winnable 2NR option in every debate vs. a Cuba case.

### Original Notes

#### 1. This is a generic QPQ counterplan vs. Cuba affirmatives. The blocks have been duplicated so that there is a version to read against unconditional plans and a version that adds a condition vs. QPQ plans.

#### 2. The net-benefit is small and mostly “turns case,” not something truly external. Nonetheless, Cuba is very likely to “say yes” to this condition and it’s better to get Gross back than to not.

#### 3. The best net-benefit is U.S.-Cuba relations. The international law net-benefit is relatively contrived but acceptable. Politics isn’t really a net-benefit, but you can at least introduce the idea and make the affirmative fight back. You should always introduce the tie-breaker net-benefit.

#### 4. The international law net-benefit might have some interactions with the case. The aff might read an I-Law advantage or an add-on about the embargo. If they do, say that the counterplan results in lifting the embargo (or whatever the plan does) *too*, but that *only the counterplan* corrects *another* violation of I-Law.

#### 5. The same general idea applies to U.S.-Cuban relations, too. If they don’t read a U.S.-Cuba relations impact, you’ll need to dig one up and add it to the 2NC/1NR.

#### 6. There is some duplication of evidence in the blocks. Make sure to only read a card once, obviously — but if it makes an argument that helps elsewhere, cross-apply it and explain why. The blocks are thorough but this counterplan could be extended in a pretty small amount of time depending on how the 2AC responds.

# QPQ Version vs. Unconditional Affs

## \*\*\* 1NC

### 1NC — Alan Gross QPQ CP

#### [THE FIRST/NEXT OFF-CASE POSITION IS THE ALAN GROSS QPQ COUNTERPLAN]

#### The United States federal government should offer to [plan] if and only if the Republic of Cuba releases Alan Gross.

#### The counterplan solves the case and is net-beneficial—

#### First, the U.S. should trade increased economic engagement for Gross’s release — a *quid pro quo* is key to boost relations.

Smith 12 — Wayne Smith, Director of the Cuba Program and Senior Fellow at the Center for International Policy, served as unofficial ambassador to Cuba under President Jimmy Carter, 2012 (“What Roles for Foreign Direct Investment in the New Cuban Economy?,” Transcript of a Brookings Institution Panel Discussion, December 10th, Available Online at <http://www.brookings.edu/~/media/events/2012/12/10%20cuba/20121210_cuban_economy.pdf>, Accessed 09-02-2013, p. 30-31)

MR. PICCONE: Let’s take one more. Wayne, up front here, please. [end page 30]

SPEAKER: Thank you. Back to the stalemate in which we now find ourselves with the Alan Gross case. There is growing pressure on Cuba to release Alan Gross. And good; we all want to see him released. But there’s going to have to be some kind of quid pro quo. And of course, not the Cuban 5 for Alan Gross; that’s not going to work. But what about some kind of economic arrangement that the U.S. would come up with to facilitate engagement as the quid pro quo? They want to increase trade, economic relations with us, and this would work in that direction. Isn’t there some – so far it’s really disappointing with the United States insisting that Alan Gross be released or there won’t be any movement, there won’t be any improvement in U.S.-Cuban relations. But you don’t see the United States making any effort to come up with some quid pro quo, some arrangement that would lead to his release. We need to do that, but we can do it in such a way that would facilitate economic relations between the two, if would seem to me.

\* Mr. Piccone = Ted Piccone, Senior Fellow and Deputy Director of Foreign Policy Studies at The Brookings Institution, served eight years as a senior foreign policy advisor in the Clinton Administration

#### Second, Cuba wants to use Gross as leverage to negotiate with Washington on other bilateral issues — they’ll “*say yes*” to the counterplan.

Sweig 13 — Julia E. Sweig, Nelson and David Rockefeller Senior Fellow for Latin America Studies and Director for Latin America Studies at the Council on Foreign Relations, holds an M.A. and Ph.D. from the Johns Hopkins University School of Advanced International Studies, interviewed by Robert McMahon, Editor of CFR.org, 2013 (“Talking to Cuba,” Council On Foreign Relations, January 25th, Available Online at <http://www.cfr.org/cuba/talking-cuba/p29879?cid=rss-latinamericaandthecaribbea-talking_to_cuba-012513>, Accessed 09-02-2013)

*Washington continues to point to what it says is the biggest impediment, which is the case of Alan Gross, the U.S. citizen who U.S. officials said was in Cuba to help with Internet access; Cubans say he was subverting the state. He continues to languish in Cuba. How to resolve this issue?*

Well, like governments resolve issues, they get in the room and they talk. And they put the issues on the table that are connected indirectly and intrinsically to that particular issue. By the way, the DAI (Developments Alternative International), which was Alan Gross's employer, just released the contracts (PDF) between DAI and Alan Gross, and there is a lot of information in there about the equipment that Gross brought down there and reasons why he was bringing that equipment. And that will just, unfortunately, reinforce the sense that this wasn't just benign development or benign Internet assistance.

This was part of a program funded by the U.S. government intended to destabilize the Cuban government, and the documentation really clearly shows that. And the lawsuit, now that the Gross family has filed against the State Department, also says that USAID should have trained Gross in counterintelligence. So, the way to stop this Alan Gross issue from becoming a political Frankenstein is to get in the room and settle a number of issues, including the Gross issue, including the Cuban 5 issue [five Cuban intelligence agents arrested by federal authorities in Miami in 1998 on charges of espionage], including other bilateral issues.

*Some see the case of Alan Gross as playing into a narrative that the Cubans are using this case for leverage and are not genuinely interested in justice or in properly handling this case. How do you respond to that perspective?*

Well, they are interested in using the case as leverage. President Obama, at the first Summit of the Americas he attended, pledged to open a new chapter in U.S.-Cuban relations and acknowledged that the embargo and U.S. policy had failed. Then he left in place the very policies he had inherited from George W. Bush. Some call them democracy promotions; some call them regime change—explicitly designed to destabilize Cuba. Which is very, very consistent with the bipartisan approach to Cuba over the last fifty years.

So, Gross is leverage, unfortunately, and Washington's position now seems to be, "There are lots of things we can do, but we won't do any of it until you first unilaterally release Gross." Havana's position is: "Washington has promised us things before and not done them. We have no incentive to do anything unilaterally because once we give you what you want, neither do you." Because the status quo of domestic politics dominating this issue and perverting it and the status quo of a pretty safe and regular flow of people between Havana and Miami and a succession that is very stable in Cuba means there is very little incentive for Washington to move aggressively toward a better Cuba policy.

Havana's attempt to use Gross to launch what it calls a political dialogue, in addition to dealing with all of the myriad issues on the table, in its essence is also about pushing Washington to deal with Havana, government to government. That is sort of a deep strategic driver on this [Gross case].

\* Italicized text is the questions; brackets around “Gross case” in the last sentence is in the original article

#### Third, Gross’s continued detention is a violation of international law and human decency. Better relations with Cuba are impossible until he is released.

Washington Post 10 — Washington Post, 2010 (“Cuba's Jewish hostage,” Op-Ed, December 6th, Available Online at http://www.washingtonpost.com/wp-dyn/content/article/2010/12/06/AR2010120606357.html, Accessed 09-02-2013)

Raul Castro’s attempt to win foreign favor and investment for Cuba's moribund economy took a particularly cynical turn on Sunday, when the dictator celebrated Hanukkah with Havana's tiny Jewish community. Broadcast on state television, the event was designed to prove that the regime doesn't share the anti-Semitism of allies such as Iran and Venezuela. There was just one problem: No mention was made of Alan P. Gross, an American from Potomac who passed the holiday in a Cuban military facility, where he has been imprisoned for a year without trial because he tried to help Cuba's Jews.

Mr. Gross, a 61-year-old specialist in international development, traveled to Cuba under a contract from the State Department's Agency for International Development. His mission was to connect members of the Jewish community to the Internet, using laptops and satellite equipment, so that they could contact other Jewish communities and download information from sites such as Wikipedia. Though that is normal activity in most of the world - and Mr. Gross declared his garden-variety equipment to Cuban customs - he was arrested on Dec. 3, 2009.

Senior Cuban officials claimed that Mr. Gross, who is himself Jewish but speaks little Spanish, was sent to Cuba as a spy. Yet a year later, not a single charge has been brought against him - a violation of Cuba's laws. In that time, the contractor's health has badly deteriorated. According to his wife, he has lost 90 pounds and developed back problems that have caused partial paralysis in one leg. Several months ago, one of his daughters was diagnosed with breast cancer and is undergoing chemotherapy. Because of the loss of his income, his wife has been forced to move from their Potomac home to a small apartment in Washington.

Appeals by the State Department and congressional leaders for Mr. Gross's release on humanitarian grounds - or at least the detailing of charges against him - have fallen on deaf ears in Havana. Instead the regime appears to be intent on forcing an exchange of Mr. Gross for one or more of five Cuban intelligence agents who are serving federal prison terms after being tried and convicted on espionage charges. This makes Mr. Gross not a prisoner but a hostage - one whose continued detention is a flagrant violation of international law and human decency.

To its credit, the Obama administration has put further improvement of relations with Cuba on hold while pressing for Mr. Gross's release. A statement released Friday said the State Department had "made it very clear to the Cuban government that the continued detention of Alan Gross is a major impediment to advancing the dialogue between our two countries." Raul Castro should know that orchestrated media events like his Hanukkah celebration are no substitute for reversing this wrong.

## \*\*\* 2NC/1NR—Overview/Net-Benefit

### Global Overview/Explanation

#### Instead of *unconditionally* engaging Cuba, the U.S. should offer [the plan] as a *quid pro quo* for the release of Alan Gross, a U.S. citizen serving a lengthy prison term in Havana for providing internet access to the Cuban Jewish community.

#### Gross’s detention is a violation of international law and a critical barrier to improved U.S.-Cuban relations. Enacting the plan without demanding a *quid pro quo* cedes bargaining leverage — *only* the counterplan gets Gross released, reaffirms international law, and boosts relations.

### International Law Net-Benefit Overview

#### Gross's imprisonment violates international law: it is an arbitrary detention — that's Washington Post. Concessions to Cuba that don't negotiate his release signal a lack of commitment to international law.

#### Weak commitment to I-Law risks human survival — every instance is key because exceptions undermine global norms.

Charney and Danilenko 95 — Jonathan I. Charney, Professor of Law at Vanderbilt University, previously served in the Lands and Natural Resources Division of the U.S. Department of Justice, and Gennady M. Danilenko, Head of the Center for International Law in the Institute of State and Law, has held visiting professorships at the University of California-Berkeley and the University of Michigan, 1995 (“Consent and the Creation of International Law,” *Beyond Confrontation: International Law for the Post-Cold War Era*, Edited by Lori Fisler Damrosch, Gennady M. Danilenko, and Rein Mullerson, Published by Westview Press, ISBN 0813389232, p. 25)

Faced with a number of global problems affecting the interests of every human being on this planet, the international community may find that a constitutional theory based on state consent presents unacceptable obstacles to necessary solutions. Such problems relate to the global environment, weapons of mass destruction, international terrorism, and basic human rights. If all states cannot be bound by international law that addresses these problems, truly effective solutions will be impossible, and the entire community will remain at risk. A principal obstacle to such solutions is the theory that states that do not accept a norm, and particularly states that object to it, are not bound and remain free to behave as if the norm does not exist. In some situations, even a single state exception may directly undermine all potential solutions. Certainly, such an exception may encourage or even compel others to refuse to abide by it. While these interests may conflict with the consent rule, that rule has strong support in the fundamental idea that states are independent, sovereign, and autonomous.13

### They Say: “Detention Doesn’t Violate I-Law”

#### Gross’s detention violates international law — *neutral UN experts*.

Algemeiner 13 — The Algemeiner—an American Jewish newspaper, 2013 (“UN: Cuba’s Detention Of Jewish-American Alan Gross is Arbitrary, Violates International Law,” January 9th, Available Online at <http://www.algemeiner.com/2013/01/09/un-cubas-detention-of-jewish-american-alan-gross-is-arbitrary-violates-international-law/>, Accessed 09-02-2013)

The United Nations Working Group on Arbitrary Detention on Tuesday made public its opinion in the case of Jewish-American contractor Alan Gross, stating that Cuba’s detention of Gross is in fact arbitrary and calling for his immediate release.

Dec. 3, 2012 marked the three-year anniversary of Gross’s arrest. He was sentenced to a 15-year prison term for helping Cuba’s Jewish community access the Internet while he was a subcontractor for the United States Agency for International Development (USAID). Cuba convicted him of “crimes against the state.”

Gross was tried by Cuban courts that “did not exercise their function in an independent or impartial manner,” according to the UN working group.

“The tribunal should have granted Mr. Gross the benefit of being released on bail while awaiting trial, instead of keeping him in detention for more than 14 months,” the group said in its opinion.

Josefina Vidal—head of North American Affairs at the Cuban Foreign Ministry—had already revealed contents of the UN working group’s opinion on Gross in a press conference last month, but the opinion was not officially released until Tuesday.

Comprised of neutral experts from Chile, Norway, Pakistan, Senegal, and Ukraine, the UN working group issues opinions that are not binding or enforceable, but could still be significant, Gross’s attorney Jared Genser told JNS.org last October.

“Having an independent and impartial group in the United Nations saying that he’s been held in violation of international law provides a very strong political and public relations tool to put pressure on the government of Cuba to resolve the case,” Genser said.

### U.S.-Cuba Relations Net-Benefit Overview

#### Gross's detention is the main barrier to closer relations between the U.S. and Cuba. Without the counterplan, weak relations are inevitable — that's Smith, Sweig, and Washington Post.

#### Only the counterplan creates a win-win alternative that boosts relations — the net-benefit turns the case.

Herrero 12 — Ricardo Herrero, Deputy Executive Director of the Cuba Study Group, holds a J.D. from Benjamin N. Cardozo School of Law, 2012 (“Getting Serious About Alan Gross,” *The Huffington Post*, December 27th, Available Online at http://www.huffingtonpost.com/ricardo-herrero/getting-serious-about-ala\_b\_2370767.html, Accessed 09-02-2013)

So what can be done? There are three opportunities for securing Gross' release that could also help improve relations between the U.S. and Cuba:

1. Introduce alternative terms to the negotiation. The Cubans have dictated the terms of the negotiation from day one, and hardliners in the U.S. government have seemingly been too happy to play along. However, just because the U.S. won't agree to the spy swap doesn't mean negotiations should stop there. U.S. sanctions on Cuba remain a decades-old morass of congressional actions, presidential directives and executive orders, resulting in an entrenched and inflexible foreign policy that is as incoherent as it is ineffective. There are plenty of outdated sanctions on the books that the United States could repeal or amend in exchange for Gross' release.

2. Pursue Gross' release and economic engagement concurrently. In 2011, the Obama Administration announced a shift in the focus of U.S.-Cuba policy toward empowering civil society and supporting independent economic activity. If Cuba's burgeoning private sector is to grow into a viable alternative to the Island's top-down economic system, it will need a deeper economic relationship with the American private sector. By conditioning all further efforts to engage with the Cuban people on Gross' release, we are playing by the rules of those who benefit from the prolonged confrontation and mutual isolation between the two countries. Denying these private individuals an economic relationship with the United States only serves to further delay the kind of changes that policies like Helms-Burton were ill-designed to accelerate.

3. Look to the Angel Carromero case as a model. We don't know what deal the Spanish government struck with the Cubans to secure the release of Angel Carromero, the Popular Party's pro-democracy activist who was charged with the negligent homicide of Oswaldo Payá and Harold Cepero and will now serve his sentence in Spain. What is clear is that through direct diplomacy, the Spanish have been far more successful at liberating political prisoners, democracy advocates, and businessmen from Cuban jails than any other country, all while promoting democracy inside the island through direct support to pro-democracy groups. On the other hand, our confrontational approach has only perpetuated the conflict without any progress to show for it.

The United Nations recently condemned Cuba's arbitrary detention of Alan Gross for the first time and the U.S. Embargo on Cuba for the 21st year in a row. By pivoting negotiations for Gross's release away from a spy-swap and toward win-win alternatives, both the United States and Cuba stand to gain credibility within the international community. The United States could finally pave the road to a future where it can lead an effective multilateral policy toward Cuba focused on the advancement of human rights and helping the Cuban people. Just as importantly, Alan would finally come home.

### They Say: “Plan Still Solves Relations”

#### Negotiating Gross’s release is a prerequisite to improved relations — the net-benefit turns the case.

LeoGrande and Kornbluh 11 — William M. LeoGrande, Professor in the Department of Government at the School of Public Affairs at American University specializing in Latin American politics and U.S. foreign policy toward Latin America, served on the staffs of the Democratic Policy Committee of the United States Senate and the Democratic Caucus Task Force on Central America of the United States House of Representatives, former Council on Foreign Relations International Affairs Fellow and Pew Faculty Fellow in International Affairs, holds a Ph.D. in Political Science from Syracuse University, and Peter Kornbluh, Senior Analyst and Director of the Chile Documentation Project and the Cuba Documentation Project at the National Security Archive at George Washington University, former Adjunct Assistant Professor of International and Public Affairs at Columbia University, 2011 (“A Cuban conundrum,” *Los Angeles Times*, December 6th, Available Online at http://articles.latimes.com/print/2011/dec/06/opinion/la-oe-leogrande-alangross-20111206, Accessed 09-02-2013)

Two years ago, Cuban counterintelligence officers arrested Alan P. Gross, a U.S. Agency for International Development subcontractor, as he boarded a plane in Havana for the United States. Later convicted in a closed trial of crimes against the state for smuggling sophisticated telecommunications equipment into Cuba, Gross is serving a 15-year prison sentence. Obama administration officials have declared that relations with Cuba will remain frozen until Gross is released, but the administration has not been willing to take the aggressive steps necessary to win his freedom. Gross' fate, like Cuba policy generally, is now being sacrificed to electoral politics in Florida.

Ironically, if Gross were a CIA officer, he would probably be free by now. In 2010, Washington traded 10 Russian "sleeper" agents for four Russians jailed in Moscow for spying for the West. In 1979, President Carter crafted an informal bargain in which Cuba released four CIA agents imprisoned since the 1960s, in exchange for clemency for four Puerto Rican nationalists convicted of attempting to assassinate U.S. government officials in the 1950s. The history of the Cold War is replete with such trades. The CIA takes care of its own.

But Gross did not work for the CIA. He worked — in his words, as a "trusting fool" — for a USAID contractor participating in a U.S. government-funded democracy-building program. He traveled several times to Cuba on a tourist visa carrying computers, cellphones and satellite communications technology for independent nongovernmental organizations and individuals in Cuba's Jewish community.

The Cuban government regards USAID's democracy-promotion program as subversive, geared to foment regime change. It arrested Gross, a bit player in this larger diplomatic drama, to send Washington the message that Cuba will not tolerate such actions. U.S. officials expected that once the Cubans had made their point, they would free Gross on humanitarian grounds. But that hasn't happened. As Foreign Minister Bruno Rodriguez told the New York Times in September, any humanitarian release would have to be based on "reciprocity."

By that, Havana means the release of the so-called Cuban Five — five intelligence officers dispatched to the United States in the 1990s to spy on militant anti-Castro groups in the Cuban American community and imprisoned here since 1998. Their prolonged incarceration is a cause celebre in Cuba, and one can only assume that Cuban security officials are just as intent on looking after their own as are intelligence agencies everywhere.

When Jimmy Carter traveled to Cuba in March, his hosts floated the idea of an informal swap modeled on the release of the CIA agents and Puerto Rican nationalists in 1979. Carter has publicly called for the release of both Gross and the Cuban Five, albeit without linking the cases.

Thus far, however, the Obama administration has been unwilling to even consider such an exchange because of the inflammatory politics of the Cuban Five case in Miami's Cuban American community. When former New Mexico Gov. Bill Richardson went to Havana in September hoping to negotiate Gross' release, the State Department gave him only a meager list of reciprocal U.S. actions to offer. The Cubans indignantly refused to let Richardson even meet with Gross.

If Obama's political advisors think that refusing to trade the Cuban Five for Gross will insulate the president from political heat on the issue, they don't know south Florida. Republicans are already referring to Gross as a "hostage" and excoriating Obama for not forcing Cuba (somehow) to release him. From a strictly political calculus, Obama would be better off securing Gross' release and getting the issue off the electoral agenda.

But the real concern ought to be safeguarding Gross' well-being by finding an expeditious path to win his freedom. At present, the administration has put itself in a Catch-22: It won't take any further initiatives to improve relations while Gross remains in jail, but the poor state of relations with Cuba is the main obstacle to his release. Based on the lessons of previous prisoner releases and successful negotiations with Cuba, the administration needs to take a more proactive approach.

### Anti-Semitism Net Benefit:

#### It is unethical to allow Cuba to continue to detail Alan Gross. He’s arbitrarily detained for helping Jewish citizens in Cuba. To not take the opportunity to secure his release is an abdication of our ethical responsibility as American citizens. This is a violation of human decency — that’s Washington Post.

#### ONLY the counterplan is the most ethical – it demands the release of Alan Gross and does the plan. We’ll win that Cuba will SAY YES to the condition, which means that the plan alone is UNETHICAL because it doesn’t demand his release. Only the counterplan avoids picking and choosing which innocents to support. That turns the 1AC impact.

#### Turn – Anti-Semitism:

#### (a) Alan Gross is an innocent imprisoned for anti-Semitic reasons

#### (b) Reject anti-Semitism.

Lipstadt 94 — Deborah E. Lipstadt, Professor of Modern Jewish and Holocaust Studies at Emory University, 1994 (*Denying the Holocaust: The Growing Assault on Truth and Memory*, Published by Plume (Reprint Edition), ISBN 0452272742, p. xvii)

In the 1930s Nazi rats spread a virulent form of antisemitism that resulted in the destruction of millions. Today the bacillus carried by these rats threatens to "kill" those who already died at the hands of the Nazis for a second time by destroying the world's memory of them. One can only speculate about the form of the bacillus' next mutation. All those who value truth, particularly truths that are subject to attack by the plague of hatred, must remain ever vigilant. The bacillus of prejudice is exceedingly tenacious and truth and memory exceedingly fragile.

### Net-Benefit Uniqueness Booster

#### Our net-benefits are unique — the U.S. is currently negotiating for Gross’s release, but the plan (and permutation) eliminates leverage. The net-benefits are disadvantages to the plan.

Miami Herald 12/5 — Miami Herald, 2013 (“Kerry: U.S. is “currently engaged” in talks to free Alan Gross,” Byline Juan O. Tamayo, December 5th, Available Online at http://www.miamiherald.com/2013/12/04/3797460/kerry-us-is-currently-engaged.html#storylink=cpy, Accessed 12-06-2013)

The Obama administration is “currently engaged” in behind-the-scenes discussions to win the release of U.S. government subcontractor Alan Gross, jailed in Cuba for the past four years, according to Secretary of State John Kerry.

Kerry, who engaged in another secret effort to free Gross in 2010, made the largely unnoticed remarks Tuesday at a news conference in NATO headquarters in Belgium, after he was asked about U.S. citizens detained in Cuba, Iran and North Korea.

“In the case of Mr. Gross, we’ve had any number of initiatives and outreaches over the last several years and engagement with a number of different individuals who have traveled to Cuba, met with people individually there and elsewhere,” Kerry said.

“And we are currently engaged in some discussions regarding that, which I’m not at liberty to go into in any kind of detail,” he added, declining further comment on a case that has become the key roadblock to improved U.S.-Cuba relations.

“With respect to the number of American citizens who are being held in different places …we have been engaged behind the scenes — which is often the way these issues are best managed — in every single case in order to try to secure the safety of those people, and in order ultimately to be able to secure their release,” he said.

“The bottom line is that we have raised these issues not just in Korea — North Korea, not just in Cuba, but also with respect to a number of Americans who are held in Iran,” he concluded. “And I have personally raised those names and those individuals with my counterpart as well as in other ways. And we are hopeful that in each case, at some point we will be able to win their freedom and have them rejoined with their families.”

The State Department said late Wednesday that “securing Alan Gross’ immediate release remains a top priority of the United States. We use every appropriate diplomatic channel to press for Mr. Gross’ release, both publicly and privately.”

### Politics Net-Benefit Overview

#### The Politics DA is a net-benefit because the counterplan softens the political blow of working with Cuba — Republicans are demanding that Obama secure Gross’s release.

LeoGrande and Kornbluh 11 — William M. LeoGrande, Professor in the Department of Government at the School of Public Affairs at American University specializing in Latin American politics and U.S. foreign policy toward Latin America, served on the staffs of the Democratic Policy Committee of the United States Senate and the Democratic Caucus Task Force on Central America of the United States House of Representatives, former Council on Foreign Relations International Affairs Fellow and Pew Faculty Fellow in International Affairs, holds a Ph.D. in Political Science from Syracuse University, and Peter Kornbluh, Senior Analyst and Director of the Chile Documentation Project and the Cuba Documentation Project at the National Security Archive at George Washington University, former Adjunct Assistant Professor of International and Public Affairs at Columbia University, 2011 (“A Cuban conundrum,” *Los Angeles Times*, December 6th, Available Online at http://articles.latimes.com/print/2011/dec/06/opinion/la-oe-leogrande-alangross-20111206, Accessed 09-02-2013)

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By that, Havana means the release of the so-called Cuban Five — five intelligence officers dispatched to the United States in the 1990s to spy on militant anti-Castro groups in the Cuban American community and imprisoned here since 1998. Their prolonged incarceration is a cause celebre in Cuba, and one can only assume that Cuban security officials are just as intent on looking after their own as are intelligence agencies everywhere.

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#### Two-thirds of the Senate is pushing Obama to free Gross.

Free Beacon 12/4 — The Washington Free Beacon, 2013 (“Family, Friends Call for Release of Prisoner Held in Cuba for Four Years,” Byline Daniel Wiser, December 4th, Available Online at http://freebeacon.com/family-friends-call-for-release-of-prisoner-held-in-cuba-for-four-years/, Accessed 12-06-2013)

White House spokesman Jay Carney said on Tuesday that Obama has personally told foreign leaders to wield their influence with Cuba and free Gross. A statement from the State Department called on Cuba to “release Alan Gross and return him to his family, where he belongs.”

However, speakers at the vigil warned that more calls for his unconditional release will likely continue to fall on deaf ears.

Rep. John Delaney (D., Md.) said the president must do more as dozens of attendees at the rally waved signs with pictures of Gross and chanted “Bring Alan Home!” A bipartisan group of 66 senators urged the president to “act expeditiously” and obtain Gross’ release in a letter last month.

#### The Cuba Lobby is powerful, but their position doesn’t resonate on the Gross issue. The counterplan exploits this weakness — negotiations over a recent letter prove.

Dreazen 11/15 — Yochi Dreazen, Senior Writer for International Affairs at *Foreign Policy*, 2013 (“Is Washington Letting This American Rot in a Cuban Jail?,” *Foreign Policy*, November 15th, Available Online at http://www.foreignpolicy.com/articles/2013/11/15/washington\_is\_letting\_this\_american\_rot\_in\_a\_cuban\_jail?page=full, Accessed 12-06-2013)

The latest twist in the saga is just spinning up now, with a loose-knit coalition of roughly 50 senators from both parties working to finalize a letter to the White House that uses some of the most forceful language to date to press President Obama to cut a deal with Havana. The letter, obtained by Foreign Policy, calls on Obama to "take whatever steps are in the national interest" to get Gross, 64, out of Cuba.

An earlier draft, portions of which were also obtained by FP, was far more explicit in calling for a negotiated settlement, with lawmakers pressing Obama to take "any measures necessary" to free Gross. People familiar with the matter say that the language was softened because of strong opposition from two of the most powerful and prominent members of the Senate, both of Cuban-American descent: Robert Menendez of New Jersey, the Democratic chairman of the Senate Foreign Relations Committee, and Republican Marco Rubio of Florida, who is widely seen as a likely contender for the GOP presidential nomination in 2016.

### Tie-Breaker Net-Benefit Overview

#### Presumption is strongly neg — if it’s likely that Cuba will agree to the QPQ, choose the counterplan *even if* we don’t win a large net-benefit. The release of Gross is better than his continued imprisonment — he deserves to come home to his family, not die in a Cuban jail because he helped people use Wikipedia. Human decency *is* a real impact.

Dreazen 11/15 — Yochi Dreazen, Senior Writer for International Affairs at *Foreign Policy*, 2013 (“Is Washington Letting This American Rot in a Cuban Jail?,” *Foreign Policy*, November 15th, Available Online at http://www.foreignpolicy.com/articles/2013/11/15/washington\_is\_letting\_this\_american\_rot\_in\_a\_cuban\_jail?page=full, Accessed 12-06-2013)

While the tussling continues, Gross is languishing in a Cuban jail, where he spends 23 hours per day in a small cell that he shares with two other prisoners. Prison appears to be taking an enormous physical and mental toll. A lump on Gross's shoulder led to a temporary cancer scare. He missed one of his daughter's weddings and wasn't there for her when she was diagnosed with breast cancer. His mother, 90, appears to be in the final stages of herlung cancer battle. Gross isn't slated to be freed until 2024, when he will be 75 years old. Gilbert, his lawyer, said hope of an early release is the only thing keeping Gross alive. If the U.S. government doesn't figure out a way of bringing the contractor home, Gilbert said that he expects his client to die in prison. "Keeping him there for 11 years would be a death sentence," Gilbert said.

## \*\*\* 2NC/1NR—Competition/Theory

### They Say: “Permute – Do Both”

#### 1. The perm gives away bargaining leverage—Cuba won’t release Gross if they’ve already received a U.S. concession. When offered both, they’ll choose the concession—not the QPQ.

#### 2. *Unconditional* engagement fails — Gross’s release must be part of the offer.

Lopez 13 — Vanessa Lopez, Research Associate at the Institute for Cuban and Cuban-American Studies at the University of Miami, J.D. Candidate at Emory University, 2013 (“The Failure of U.S. Attempts at Unilateral Rapprochement with Cuba,” *Focus on Cuba*, Issue 187, March 25th, Available Online at http://ctp.iccas.miami.edu/FOCUS\_Web/Issue187.htm, Accessed 07-21-2013)

Obama entered the Oval Office having made promises to liberalize Cuba policy. His Administration swiftly lifted restrictions on Cuban-American travel to Cuba as well as remittances sent to the island. Cuba's response was to arrest a U.S. citizen. Alan Gross was working as a USAID subcontractor, providing Jewish groups in the island with communications equipment. He was tried and sentenced to 15 years in a Cuban jail. The U.S. government said Gross's incarceration would prevent further liberalization. Various notable personalities have travelled to Cuba seeking Gross's release, including President Jimmy Carter and Governor Bill Richardson, but these efforts have all failed. Despite Gross’s continued incarceration, in 2011, Obama also liberalized “people-to-people” travel, allowing more university, religious, and cultural programs to travel to Cuba.

History demonstrates that unilateral U.S. efforts have had, and are having, no impact on Cuba's leadership. On the contrary, the Cuban government has interpreted U.S. openings towards Cuba as signs of weakness, which have resulted in Cuba's hostility towards the U.S. and in some instances, in reckless actions such as Mariel and the Balsero Crisis.

Improved relations between the U.S. and Cuba is a laudable goal, but to be successful, Cuba must be a willing participant. Cuba has an unambiguous pattern of harming U.S. interests when the U.S. has engaged in attempts of unilateral rapprochement. If the U.S. would like to protect its interests, it should demand that Cuba take the first step in any future efforts to improve relations between the two countries and offer irreversible concessions.

#### 3. Cuba won’t release Gross unless they get something in return — they’ll hold him hostage as leverage.

Washington Post 12 — Washington Post, 2012 (“U.S. shouldn’t hand Cuba an Alan Gross-for-spies deal,” Op-Ed, December 5th, Available Online at http://articles.washingtonpost.com/2012-12-05/opinions/35639087\_1\_alan-gross-castro-regime-cuban-president-ra-l-castro, Accessed 09-02-2013)

With the presidential election over, supporters of better U.S.-Cuban relations are calling on President Obama, who won a majority of the Cuban American vote, to seek accord with the Castro regime. They forget the case of Alan Gross, the American development contractor who this week began his fourth year in a Cuban military prison.

Mr. Gross, of Potomac, was arrested on Dec. 3, 2009, after he delivered satellite telephones to members of Cuba’s tiny Jewish community. He had been hired to provide the equipment by the U.S. Agency for International Development; the aim was to help Cuban Jews connect to the Internet.

In 2011, Mr. Gross was convicted of crimes against the state and sentenced to 15 years in prison. There the now-63-year-old has remained, despite health problems that include a severe loss of weight, arthritis and a growth on his shoulder. His appeals to visit his gravely ill, 90-year-old mother have been denied. Cuban president Raúl Castro has repeatedly turned down proposals to release Mr. Gross on humanitarian grounds, despite visits from envoys ranging from U.S. senators to former U.N. ambassador Bill Richardson.

The Castro government says it wants to repair relations with the United States, win the lifting of what remains of the U.S. trade embargo and attract investment from American companies. So why keep Mr. Gross in prison? The answer, unfortunately, is relatively simple. Cuba wants to swap its prisoner for five Cuban spies who were arrested in Florida in 1998. The network infiltrated a U.S. Navy base and anti-Castro groups and provided information that facilitated Cuba’s 1996 shoot-down in international airspace of two planes carrying members of one of the groups. Four U.S. citizens died. The head of the network was sentenced to life in prison after a 2001 trial, while others were given lesser terms. One is now out on probation.

There is no equivalence between Mr. Gross and the five prisoners, as Havana itself acknowledges. It agrees the Florida prisoners were its spies, but it has never charged Mr. Gross with espionage. But Mr. Castro sees Mr. Gross as the leverage to spring his agents, whom the state propaganda apparatus portrays as heroes. More significantly, by arranging an exchange, the regime believes it can reshape U.S.-Cuban relations on its own terms, without having to make concessions on human rights.

The Gross family has appealed to Mr. Obama to send a high-level envoy to Cuba and to do what is necessary to obtain his release. That’s understandable, but the administration ought to stick to its refusal to countenance such a bargain. On the contrary, Mr. Obama should consider new steps to punish the Castro regime for the continued imprisonment of Mr. Gross, and the administration should do more to raise his case in international forums.

Better relations between Cuba and the United States must be conditioned on real steps toward democratization by Havana. But until Mr. Gross is released, they ought to get worse.

#### 4. The U.S. should condition engagement on the Gross’s release — the plan weakens American leverage.

Walser 11 — Ray Walser, Senior Policy Analyst specializing in Latin America at The Heritage Foundation, served as a career Foreign Service officer with the U.S. Department of State for 27 years, former Visiting Professor of International Relations and Latin America Politics at the U.S. Military Academy, holds a Ph.D. from the University of North Carolina-Chapel Hill, 2011 (“A Cuban Slap on the Wrist: The Alan Gross Case,” *The Foundry*—the Heritage Foundation blog, August 8th, Available Online at http://blog.heritage.org/2011/08/08/a-cuban-slap-on-the-wrist-the-alan-gross-case/, Accessed 07-21-2013)

The Obama Administration has in recent months made efforts to improve relations with Cuba contingent upon the release of Alan P. Gross. A subcontractor for the U.S. Agency for International Development (USAID), Gross was arrested in December 2009 for making the Internet available to members of Cuba’s minuscule Jewish community. He was sentenced to 15 years in prison in March 2011. Two weeks ago, Cuba’s highest tribunal listened to an appeal of his conviction and a plea for release.

In Cuba, free circulation of ideas is forbidden. The State defines truth, not the individual. Free exchanges of information are viewed as subversive and undermining the authority of the State. A combination of siege mentality and decades-old thought control keep the island locked in the grip of the regime’s repressive informational stranglehold.

A window for potential clemency in the Gross case opened when Cuba’s highest court took up the Gross case. The court could have voided Gross’s 15-year sentence. Expectations were not high. Cuba is a country where justice is always political, and the judiciary looks over its shoulder for cues from the political hierarchy.

Fidel and Raul Castro could have used the moment to signal a modest change of heart. Or, as The Washington Post notes, they could have demonstrated that Cuba is “remotely interested in better relations with Washington.” They did not. Cuban paranoia prevailed. The court rejected Gross’ appeal. The Castro brothers opted to continue to punish Gross—now America’s most prominent political prisoner—throwing it in the face of the Obama Administration and the United States.

Cuba’s aging dictatorship, slumping economy, scattershot economic reforms and resort to acts of repression constitute a desperate spectacle. Cuba has put out the welcome mat for cancer-stricken Hugo Chávez. His health crisis looms large as Venezuela provides an indispensable lifeline of support to the regime. The role U.S. travel and remittances play in propping up the economy is taken as a given.

In the twilight of its tyranny, the Castro regime is determined to show it can still play hardball with the life and liberty of a single American citizen and show that the Obama Administration is unable to do little more than bluster.

Former diplomat and democracy expert Elliott Abrams is right: The next step for the Administration to take is to use diplomatic channels to inform the Castro brothers that unless their “clemency” is exercised, the relaxation of travel restrictions will be reversed and greater pressure will be brought on the government of Cuba.

#### 5. The U.S. should hold its ground — engagement must be *conditioned* on Gross’ release.

Donnelly 12 — Kathleen Donnelly, member of the Young Leaders Program at The Heritage Foundation, 2012 (“Three Years as Cuba’s Hostage: Freedom for Alan Gross Still Far Away,” *The Foundry*—the Heritage Foundation blog, December 4th, Available Online at http://blog.heritage.org/2012/12/04/three-years-as-cubas-hostage-freedom-for-alan-gross-still-far-away/, Accessed 07-21-2013)

The Heritage Foundation has written on the case of Gross before. On this third anniversary of his imprisonment, Americans shouldn’t forget the true injustice of Gross’s situation.

Oddly, the longer Gross is in prison, the more talk is made in favor of the U.S. being flexible with Cuba. After all, some say, Gross did violate Cuban laws, and Cuba has offered to negotiate for his release. To buy into this argument, though, is to forget who is at fault in the case.

Despite pressure to cut a deal with Cuba, the Obama Administration is right to hold its ground against Cuba. Three years into his unjust imprisonment, Gross, along with millions of Cubans, remains a victim of a repressive, totalitarian Castro regime that has held the island in its iron grip for more than half a century.

No one deserves 15 years in prison for helping to give Cubans freedoms that are considered universal. If the Castro regime wishes to gain the respect of the international community and earn a valuable position on the world stage, it should free Gross immediately and without further chicanery.

### They Say: “Permute – Do CP”

#### 1. This severs unconditional engagement. QPQ is plan-minus — counterplan only enacts concessions if Cuba releases Gross, not in *all* circumstances. Plan should only be done *if* Gross is released.

#### 2. Textual competition *unnecessary* — texts are policy shorthand. Wording debates are unproductive and crowd-out substance — policy comparison is more valuable than semantics.

### They Say: “QPQ CPs Bad”

#### 1. *Topic* burden — engagement debates necessitate QPQ discussion. Conditional and unconditional are mutually exclusive options.

Kim and Kang 9 — Sung Chull Kim, Professor of Northeast Asian Studies at the Hiroshima Peace Institute, and David C. Kang, Professor of International Relations and Business at the University of Southern California, 2009 (“Introduction: Engagement as a Viable Alternative to Coercion,” *Engagement with North Korea: A Viable Alternative*, Edited by Sung Chull Kim, Published by SUNY Press, ISBN 1438427867, p. 9)

The five states, anchored by the Six-Party Talks, have had a common goal, the nuclear disarmament of North Korea. However, this goal is not the first priority of each state; each state has its own additional—sometimes more important—goals for engagement with North Korea. Accordingly, the type and the logic of each state's engagement strategy differ from those of every other state (see Table 1.1). In bilateral relations with North Korea, there are specific and important differences within these two types of engagement: conditional and unconditional. Japan takes a mostly coercive approach, and the United States maintains conditional engagement; China and Russia (and South Korea of the Roh administration) maintain unconditional engagement. The point is that all of these different types of engagement are in tension with one another. The five states' effort to remain in concert as they try to end North Korea's nuclear ambitions constitute a challenging issue.

#### 2. *Aff* choice — plan can specify QPQ. Condition counterplans are core neg ground when aff specifies unconditional engagement — scholarly literature supports.

Kahl and Brimley 8 — Colin Kahl, Assistant Professor in the Security Studies Program at Georgetown University, Fellow at the Center for a New American Security, holds a Ph.D. in Political Science from Columbia University, and Shawn Brimley, Bacevich Fellow at the Center for a New American Security, 2008 (“The Case for Conditional Engagement in Iraq,” Policy Brief — Center for a New American Security, March 6th, Available Online at http://www.cnas.org/node/155, Accessed 07-15-2013)

President Bush and his successor have only three basic choices on strategy for Iraq: unconditional engagement, conditional engagement, or unconditional disengagement. Only a policy of conditional engagement can help translate recent security gains into something more sustainable.

#### 3. Functional limits — topic is too broad without credible threat of QPQ. Protect neg ground — preparation already stretched thin because of country diversity and weak definitions of “economic engagement”.

#### 4. Disads *not* sufficient — impacts don’t outweigh case. Only counterplans effectively telescope debates onto core question of conditional vs. unconditional engagement.

#### 5. Race to the *top* — *solvency advocates* limit QPQ potential and force aff innovation on “*unconditional key*” advantages. Neg not responsible for all plan-contingent counterplans — narrow exception for the Alan Gross QPQ is best middle ground because it is core of topic and we have a solvency advocate.

## \*\*\* 2NC/1NR—Solvency

### They Say: “CP Doesn’t Solve Credibility”

#### If the plan is sufficient to solve credibility, so is the counterplan — it also results in [the plan’s outcome].

#### The counterplan turns their credibility advantage — failure to follow-through on the demand for Gross’s release makes the U.S. look weak.

#### Unilateral concessions are pocketed by Cuba and perceived as a reward for human rights abuses. The counterplan’s quid pro quo is best.

Suchlicki 11/20 — Jaime Suchlicki, Emilio Bacardi Moreau Distinguished Professor of History, Editor of the *Cuban Affairs Journal*, and Director of the Institute for Cuban and Cuban-American Studies at the University of Miami, holds a Ph.D. from Texas Christian University, 2013 (“Why Sanctions on Cuba Must Remain,” *Room for Debate*—a *New York Times* scholarly blog, November 20th, Available Online at http://www.nytimes.com/roomfordebate/2013/11/19/sanctions-successes-and-failures/why-sanctions-on-cuba-must-remain-in-place, Accessed 11-21-2013)

What’s more, ending U.S. sanctions without major concessions from Cuba would send the wrong message to the Castro regime and to the rest of Latin America. Supporting regimes and dictators that violate human rights and abuse their population is an ill-adviced policy that rewards and encourages further abuses.

If the travel ban and the embargo are ended unilaterally now by the U.S., what negotiating tool to encourage change in Cuba will the U.S. government have with a future regime? Countries don’t change their policies without a quid pro quo from the other side. Unilateral concessions are pocketed by our adversaries without providing meaningful changes.

Sanctions should be ended as a result of negotiations between the U.S. and a Cuban government willing to provide meaningful and irreversible political and economic concessions, not only to the U.S. but, more important, to the Cuban people.

#### Only the counterplan solves credibility.

Herrero 12 — Ricardo Herrero, Deputy Executive Director of the Cuba Study Group, holds a J.D. from Benjamin N. Cardozo School of Law, 2012 (“Getting Serious About Alan Gross,” *The Huffington Post*, December 27th, Available Online at http://www.huffingtonpost.com/ricardo-herrero/getting-serious-about-ala\_b\_2370767.html, Accessed 12-06-2013)

The United Nations recently condemned Cuba's arbitrary detention of Alan Gross for the first time and the U.S. Embargo on Cuba for the 21st year in a row. By pivoting negotiations for Gross's release away from a spy-swap and toward win-win alternatives, both the United States and Cuba stand to gain credibility within the international community. The United States could finally pave the road to a future where it can lead an effective multilateral policy toward Cuba focused on the advancement of human rights and helping the Cuban people. Just as importantly, Alan would finally come home.

#### The turn is unique — Obama and Kerry are personally negotiating for Gross’s release, so the plan tanks their credibility.

CBS 12/3 — CBS News, 2013 (“W.H.: Obama “personally engaged” in trying to free Alan Gross,” Byline Rebecca Kaplan, December 3rd, Available Online at http://www.cbsnews.com/news/wh-obama-personally-engaged-in-trying-to-free-alan-gross/, Accessed 12-06-2013)

White House spokesman Jay Carney said President Obama is “personally engaged” in working toward the release of Alan Gross, a U.S. government contractor who has been imprisoned in Cuba since 2009. But Carney said he was not sure if the president had read a letter from Mr. Gross pleading for assistance in securing his release on the fourth anniversary of his imprisonment.

“We reiterate today our call for the Cuban government to release Alan Gross. Mr. Gross's detention remains an impediment to more constructive relations between the United States and Cuba,” Carney said during Tuesday’s White House briefing. “The president has himself personally engaged foreign leaders and other international figures to use their influence with Cuba to promote Mr. Gross's release. The State Department has kept Mr. Gross's case at the forefront of discussions with the Cuban government and made clear the importance the United States places on his welfare. They have also engaged a wide range of foreign counterparts and urged them to advocate for Mr. Gross's release.”

Secretary of State John Kerry, who’s attending meetings in Brussels, Belgium, told reporters Tuesday that the U.S. has had “any number” of outreaches to Cuban officials and added that the U.S. is “currently engaged in some discussions” but refused to provide any more detail.

“These things are often best resolved in quiet diplomacy, under the radar screen, behind the scenes, and that is exactly what we have been pursuing,” Kerry said.

### They Say: “CP Doesn’t Solve Multilateralism”

#### If the plan is sufficient to solve multilateralism, so is the counterplan — it also results in [the plan’s outcome]. Other nations oppose the embargo — they’re just as pleased with the counterplan as they are with the plan.

#### The counterplan turns their multilateralism advantage — a negotiated U.S.-Cuban settlement that releases Gross and [does the plan] will signal the U.S.’s commitment to international human rights norms. The plan sends the wrong signal.

Suchlicki 11/20 — Jaime Suchlicki, Emilio Bacardi Moreau Distinguished Professor of History, Editor of the *Cuban Affairs Journal*, and Director of the Institute for Cuban and Cuban-American Studies at the University of Miami, holds a Ph.D. from Texas Christian University, 2013 (“Why Sanctions on Cuba Must Remain,” *Room for Debate*—a *New York Times* scholarly blog, November 20th, Available Online at http://www.nytimes.com/roomfordebate/2013/11/19/sanctions-successes-and-failures/why-sanctions-on-cuba-must-remain-in-place, Accessed 11-21-2013)

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Sanctions should be ended as a result of negotiations between the U.S. and a Cuban government willing to provide meaningful and irreversible political and economic concessions, not only to the U.S. but, more important, to the Cuban people.

#### Only the counterplan solves multilateralism.

Herrero 12 — Ricardo Herrero, Deputy Executive Director of the Cuba Study Group, holds a J.D. from Benjamin N. Cardozo School of Law, 2012 (“Getting Serious About Alan Gross,” *The Huffington Post*, December 27th, Available Online at http://www.huffingtonpost.com/ricardo-herrero/getting-serious-about-ala\_b\_2370767.html, Accessed 12-06-2013)

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### They Say: “Cuba Says No To Conditions”

#### 1. Cuba wants to negotiate with the U.S. — they’re using Gross as leverage to bring the U.S. to the table. Cuba cares about improving relations, not about detaining Gross — that’s Sweig.

#### 2. Prefer our evidence — Cuba has a political incentive to overstate their opposition to negotiations. Sweig is a Latin America expert at Brookings — she can see through the spin.

#### 3. Cuba *is* willing to negotiate Gross’s release — *public statements*.

Algemeiner 12 — The Algemeiner—an American Jewish newspaper, 2012 (“Cuba Offers to Negotiate Release of American Alan Gross, Denies Poor Health,” September 13th, Available Online at <http://www.algemeiner.com/2012/09/13/cuba-offers-to-negotiate-release-of-american-alan-gross-denies-poor-health/>, Accessed 09-02-2013)

Cuba’s Foreign Ministry says the country is willing to negotiate the release of Alan Gross, the Jewish-American contract worker who was arrested in 2009 on accusations of spying, while bringing communications equipment to Cuba’s relatively small Jewish community. Gross, his family, and the United States government say Gross was in Cuba for no other reason than to supply internet access to those who don’t have it.

“Cuba reiterates its willingness to talk with the United States government to find a solution in the case of Mr. Gross and continues to await an answer,” said Josefina Vidal of who heads the Foreign Ministry’s Office of North American Affairs.

The development in one of the most contentious matters between the United States and Cuba at the moment, comes just days after Mr Gross’s wife said her husband’s health is deteriorating rapidly.

#### 4. The offer *itself* convinces Cuba to say yes — they want the U.S. to make a good-faith show of respect.

French 11 — Anya Landau French, Editor of the *Havana Note*—a a group blog covering the social, cultural, political, military and economic dimensions of US-Cuba relations sponsored by The Center for International Policy, former International Trade Advisor to Chairman Max Baucus of the Senate Finance Committee, holds an M.A. in International Education from the George Washington University, 2011 (“Is it time for Obama to simply ask Cuba's President Castro to free Alan Gross?,” *Latin America Monitor*—a *Christian Science Monitor* publication, December 2nd, Available Online at <http://www.csmonitor.com/World/Americas/Latin-America-Monitor/2011/1202/Is-it-time-for-Obama-to-simply-ask-Cuba-s-President-Castro-to-free-Alan-Gross>, Accessed 09-02-2013)

All that really leaves is good old-fashioned in-good-faith negotiations. The US and Cuba ought to be set up for that these days, after the two sides agreed two years ago to restart biannual migration talks, and to explore other mutual concerns such as direct mail service and the environment. Each side has renewed access to diplomats in each other's countries, but what’s really missing is an unmistakable and unshakeable signal from the top–perhaps on both sides–that there is a willingness to actually negotiate, to give up important, game-changing ground, even if it’s not exactly what we or they wanted.

On the US side, State Department officials have been clear that they won’t exchange five Cuban agents serving lengthy US prison terms for Gross. At best the US – allegedly – offered to let one of the Five who was released after serving some 13 years in prison complete his supervised release in Cuba, and to start “a process” to remove Cuba from the terrorism list ('a' process or 'the' process?). Judging from Cuban Parliament President Ricardo Alarcon’s scoffing reaction, the idea fell flat. " . . . I can't believe someone would seriously think that there could be a negotiation between Rene Gonzalez ... a man who was about to complete his sentence ... and a man who is just about to start serving his . . . " And if Cuba wanted to end the US government program for which Gross worked (Cuba considers it a regime change program, based as it is in legislation crafted to bring an end to the Castro government), the US shows no sign of giving that up either.

Back in the spring, former President Jimmy Carter met with Raul Castro and came away with the impression that Castro wanted to release Gross. But since then, Cuban officials have given mixed signals: Foreign Minister Bruno Rodriguez offered some, if vague, hope for a solution while Alarcon has repeatedly said that Cuba won’t be releasing him unilaterally.

If Judy Gross is right that the Obama administration’s efforts are constrained by election year politics, her husband could have a long year ahead of him. Mrs. Gross, understandably, doesn’t want to wait.

“I'd love for President Obama to pick up the telephone or send an email, and try to take the first step and say 'let's sit down to negotiate,” she says.

Now, it’s a ridiculous idea, but what if President Obama picked up the phone and called President Castro, and requested Mr. Gross’s release? Might Castro fulfill such a request made directly by a sitting US president? Aside from wanting America’s bilateral and extraterritorial trade and financial restrictions against Cuba lifted, wanting to be removed from all of the various US blacklists it feels it shouldn’t be on, wanting the Cuban Five returned, wanting the US to stop funding efforts to bring down its government, and besides simply wanting to be left alone to solve its own problems (and it has plenty of them), what Cuba wants from the United States is to be treated like a sovereign nation. When one president phones another, that surely fits the bill.

### They Say: “Cuba Says No To Releasing Gross”

#### 1. Cuba cares about improving relations, not detaining Gross. They’re using him as bargaining leverage to bring the U.S. to the table, but they’re willing to negotiate — that’s Smith and Sweig.

#### 2. Prefer our evidence — Smith was Carter’s ambassador to Cuba and one of the world’s most respected Cuba experts and Sweig is a Latin America specialist at Brookings. Only scholarly experts have credibility to discuss the regime’s underlying motivations — disregard less-qualified sources.

#### 3. Their argument doesn’t contextualize to the plan — the magnitude of the *quid* in this instance will certainly secure the *quo*. Cuba desperately needs [the plan] — it’s a huge U.S. concession. Releasing Gross in exchange for such a large concession is a no-brainer for the Castros.

#### 4. Cuba will agree to the swap for economic reasons — they need U.S. engagement.

Piccone 12 — Ted Piccone, Senior Fellow and Deputy Director of Foreign Policy Studies at The Brookings Institution, served eight years as a senior foreign policy advisor in the Clinton Administration, 2012 (“What Roles for Foreign Direct Investment in the New Cuban Economy?,” Transcript of a Brookings Institution Panel Discussion, December 10th, Available Online at <http://www.brookings.edu/~/media/events/2012/12/10%20cuba/20121210_cuban_economy.pdf>, Accessed 09-02-2013, p. 24-25)

On the negative sides, pretty much since then any further progress has been frozen largely because of the arrest of a USAID contractor named Alan Gross -- I’m sure you’ve heard of this case -- which is getting a tremendous amount of attention lately. And I don’t know if anyone has been noticing, but the U.S. Senate just adopted a resolution condemning the arrest, calling for his immediate release. Secretary Clinton has just issued a videotape Q&A in which she calls Alan Gross a political prisoner. The U.N. working group on arbitrary detention has declared the detention of Alan Gross to be arbitrary and that he should be released. And folks here in Washington, particularly on the Hill who were moderately open or friends of a new approach to Cuba, are starting to turn away from that position. And so I think the pressure is really on Cuba to start looking differently at this case.

Up until now it’s been a matter of trying to get a swap going with five Cubans who were arrested in the United States and tried on espionage charges and have in some of those cases very long prison terms still to serve. And this has been tabled for some time now as a possible exchange, which I think for most of us who have worked in the U.S. government and understand the way our legal system works, it’s really not in the cards. And Secretary Clinton made that very clear in her last interview. [end page 24]

So I think the pressure is on to come up with some new formulas to get past this case. I think both governments recognize that they’ve dug themselves into a hole, painted themselves into a corner and need to get out of it, and the economic opportunities probably provide a way out of this dilemma because I think if you look at it from the point of view of traditional U.S. policy of trying to support change in Cuba, the economic reforms are really an effort, a possibility to empower the Cuban people to become more independent of the state. And this is certainly within U.S. interest, proclaimed interest.

So I think there is an opportunity given the state of the Cuban economy and the assistance that they need, and the United States’ own policy goals in supporting the Cuban people, to set forth a whole set of steps that the president could take under his executive authority, would not require congressional action but would allow the president to set forth a number of measures, for example, supporting the small business community by allowing U.S. businesses and citizens to interact with them directly through technical assistance, through pooled remittances, through actual trade that we could buy products from companies, small businesses that are certified to be small businesses independent of the state. There are a number of things that could be done to support that sector and have ramifications more broadly for – positive ramifications for our policy goals. So I wanted to mention those ideas as well.

#### 5. The offer *itself* convinces Cuba to say yes — they want the U.S. to make a good-faith show of respect.

French 11 — Anya Landau French, Editor of the *Havana Note*—a a group blog covering the social, cultural, political, military and economic dimensions of US-Cuba relations sponsored by The Center for International Policy, former International Trade Advisor to Chairman Max Baucus of the Senate Finance Committee, holds an M.A. in International Education from the George Washington University, 2011 (“Is it time for Obama to simply ask Cuba's President Castro to free Alan Gross?,” *Latin America Monitor*—a *Christian Science Monitor* publication, December 2nd, Available Online at <http://www.csmonitor.com/World/Americas/Latin-America-Monitor/2011/1202/Is-it-time-for-Obama-to-simply-ask-Cuba-s-President-Castro-to-free-Alan-Gross>, Accessed 09-02-2013)

All that really leaves is good old-fashioned in-good-faith negotiations. The US and Cuba ought to be set up for that these days, after the two sides agreed two years ago to restart biannual migration talks, and to explore other mutual concerns such as direct mail service and the environment. Each side has renewed access to diplomats in each other's countries, but what’s really missing is an unmistakable and unshakeable signal from the top–perhaps on both sides–that there is a willingness to actually negotiate, to give up important, game-changing ground, even if it’s not exactly what we or they wanted.

On the US side, State Department officials have been clear that they won’t exchange five Cuban agents serving lengthy US prison terms for Gross. At best the US – allegedly – offered to let one of the Five who was released after serving some 13 years in prison complete his supervised release in Cuba, and to start “a process” to remove Cuba from the terrorism list ('a' process or 'the' process?). Judging from Cuban Parliament President Ricardo Alarcon’s scoffing reaction, the idea fell flat. " . . . I can't believe someone would seriously think that there could be a negotiation between Rene Gonzalez ... a man who was about to complete his sentence ... and a man who is just about to start serving his . . . " And if Cuba wanted to end the US government program for which Gross worked (Cuba considers it a regime change program, based as it is in legislation crafted to bring an end to the Castro government), the US shows no sign of giving that up either.

Back in the spring, former President Jimmy Carter met with Raul Castro and came away with the impression that Castro wanted to release Gross. But since then, Cuban officials have given mixed signals: Foreign Minister Bruno Rodriguez offered some, if vague, hope for a solution while Alarcon has repeatedly said that Cuba won’t be releasing him unilaterally.

If Judy Gross is right that the Obama administration’s efforts are constrained by election year politics, her husband could have a long year ahead of him. Mrs. Gross, understandably, doesn’t want to wait.

“I'd love for President Obama to pick up the telephone or send an email, and try to take the first step and say 'let's sit down to negotiate,” she says.

Now, it’s a ridiculous idea, but what if President Obama picked up the phone and called President Castro, and requested Mr. Gross’s release? Might Castro fulfill such a request made directly by a sitting US president? Aside from wanting America’s bilateral and extraterritorial trade and financial restrictions against Cuba lifted, wanting to be removed from all of the various US blacklists it feels it shouldn’t be on, wanting the Cuban Five returned, wanting the US to stop funding efforts to bring down its government, and besides simply wanting to be left alone to solve its own problems (and it has plenty of them), what Cuba wants from the United States is to be treated like a sovereign nation. When one president phones another, that surely fits the bill.

#### 6. Cuba *will* give up Gross — low cost and high reward.

Alfonso 12 — Haroldo Dilla Alfonso, Research Coordinator at The Latin American School of Social Sciences in the Dominican Republic, former Researcher at the Centro de Estudios sobre America in Havana, former Pearson Fellow at the International Development Research Centre in Ottawa, former Visiting Professor at Harvard University, 2012 (“Cuba: What to do about Alan Gross?,” *Havana Times*, December 24th, Available Online at http://www.havanatimes.org/?p=84034, Accessed 09-02-2013)

Alan Gross should be released soon and unilaterally. Not because he’s innocent or because he’s some martyr of democracy, because obviously he’s not.

His case involves an agent employed by a hostile foreign government to engage in illegal operations in Cuba. His actions were in line with a US law (the embargo) whose repudiation today is one of the issues with the greatest consensus around the globe.

This was within the framework of an interventionist program that as a Cuban I oppose, because I reject everything that turns the US or any other foreign country into a domestic political actor beyond what is essential in this globalized and asymmetric world.

Speaking directly, Alan Gross should be released because that would be a very low cost but high impact gesture for generating understanding with the United States. This is because Cuba desperately needs a normal access to the US market, tourists and capital to boost its faltering economy.

Cuba also needs a normal political relationship with the US. Though this would have all the contradictions and conflicts that are expected of such an unequal relationship, it needs open channels for communications and negotiations.

If to achieve this, to begin exchanging steps in the lukewarm minuet proposed by Obama in his second term, Mr. Gross will have to be taken to the airport. It’s time to do so.

To raise this issue to the level of the five imprisoned spies (The Cuban Five) seems a serious mistake, and also a sign of political immaturity. There’s no comparison between a network of spies, some of whom have been credited with the loss of human lives, and the case of Alan Gross.

This is especially when we know that these Cuban agents, who have lost significant portions of their lives locked up, were political pieces sacrificed by Fidel Castro to maintain policies to keep alive his exhausting nationalist campaign after the return of Elian Gonzalez.

Cuba has spies imprisoned in the US with many more stripes and records than the “five heroes in the empire” about which nothing is said, simply because in the world of espionage the rule is to look to the side and find surreptitious solutions.

This isn’t a personal position. I think the American government would be doing itself a favor and one for all of us if it were to take steps towards returning the Cuban Five to the island. But it’s also time that the Cuban government understand that their relationship with the US is asymmetric.

Faced with this asymmetry, what is required is an intelligent policy that sets aside the typical bravado of a schoolyard bully to make way for a constructive and negotiated policy about the real reasons behind the dispute.

Again, Cuba requires access to the US market and to guarantee its national integrity through negotiations, which today are exposed to great fragility given in its dependence on Venezuelan oil, and the militarization and internal repression at home.

If it is needed to release Alan Gross to obtain a nation whose sovereignty rests in the national consensus, on the prosperity of its inhabitants, and the full dignity of its people, then Cuban leaders should put aside their neutered machismo, and release him.

I repeat: Having Alan Gross in prison is more costly and less promising than releasing him. Keeping him locked up is to continue pursuing the bad politics of the anti-imperialist show. Good politics suggests taking him to Havana’s Jose Marti International Airport tomorrow.

### They Say: “Cuba Will Demand The Cuban 5”

#### 1. This is only one potential *quid*, not the only potential *quid*. The offer of the plan is a huge concession to Havana.

#### 2. Cuba’s offer to trade Gross for the Cuban 5 demonstrates their willingness to negotiate. They want improved economic relations more than anything else and are using Gross as leverage to bring the U.S. to the table — that’s Sweig.

#### 3. Cuba won’t demand the release of the Cuban 5 — they want to negotiate for economic engagement.

CBS 12 — CBS News, 2012 (“Official: Cuba ready to talk about Gross case,” May 10th, Available Online at <http://www.cbsnews.com/8301-503543_162-57432308-503543/official-cuba-ready-to-talk-about-gross-case/>, Accessed 09-02-2013)

The Cuban government got a rare opportunity to put its position on a U.S. contractor jailed in Havana and on hostile U.S.-Cuba relations before an American audience Thursday when CNN's Wolf Blitzer interviewed a top Foreign Ministry official.

Josefina Vidal, via satellite from Havana, said that while Cuba is ready to dialogue with the U.S. about the case of Alan Gross they are not advancing any formula, such as a prisoner swap. Instead, the head of the Cuban Foreign Ministry's North America Division declared Havana wants to sit down at the negotiating table with Washington to discuss all outstanding issues in an effort to establish normal relations.

Vidal says that the U.S. demand that Cuba release Gross before it takes any steps to improve relations with the island is just a "pretext" not to do so.

The State Department reacted sharply, saying Vidal's statements only reinforce the U.S. belief that Gross is being held hostage and that there is no justification for his imprisonment.

There hasn't been diplomatic relations between the two countries for five decades, although ever since the Carter presidency they have maintained Interests Sections in each other's capitals.

Vidal was echoing the position laid out in an official letter sent to Blitzer earlier this week, saying Havana has offered to hold a "dialogue to find a humanitarian solution...on a reciprocal basis" to the case of Gross, sentenced to 15 years on charges of trying to subvert the government.

That offer provoked speculation that the Cubans were holding out to swap Gross for five Cuban imprisoned in the U.S. on spying charges for nearly 14 years. Cuba says the men were only seeking information that would help prevent terrorist actions against the island and not U.S. government secrets.

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Now, it’s a ridiculous idea, but what if President Obama picked up the phone and called President Castro, and requested Mr. Gross’s release? Might Castro fulfill such a request made directly by a sitting US president? Aside from wanting America’s bilateral and extraterritorial trade and financial restrictions against Cuba lifted, wanting to be removed from all of the various US blacklists it feels it shouldn’t be on, wanting the Cuban Five returned, wanting the US to stop funding efforts to bring down its government, and besides simply wanting to be left alone to solve its own problems (and it has plenty of them), what Cuba wants from the United States is to be treated like a sovereign nation. When one president phones another, that surely fits the bill.

#### 5. Cuba is willing to negotiate Gross’s release — they’ll work with the U.S. to resolve the impasse.

Algemeiner 12 — The Algemeiner—an American Jewish newspaper, 2012 (“Cuba Offers to Negotiate Release of American Alan Gross, Denies Poor Health,” September 13th, Available Online at <http://www.algemeiner.com/2012/09/13/cuba-offers-to-negotiate-release-of-american-alan-gross-denies-poor-health/>, Accessed 09-02-2013)

Cuba’s Foreign Ministry says the country is willing to negotiate the release of Alan Gross, the Jewish-American contract worker who was arrested in 2009 on accusations of spying, while bringing communications equipment to Cuba’s relatively small Jewish community. Gross, his family, and the United States government say Gross was in Cuba for no other reason than to supply internet access to those who don’t have it.

“Cuba reiterates its willingness to talk with the United States government to find a solution in the case of Mr. Gross and continues to await an answer,” said Josefina Vidal of who heads the Foreign Ministry’s Office of North American Affairs.

The development in one of the most contentious matters between the United States and Cuba at the moment, comes just days after Mr Gross’s wife said her husband’s health is deteriorating rapidly.

### They Say: “Prefer Latest Evidence About Cuban 5”

#### No reason to prefer the most recent evidence — Cuba has reiterated that they want the Cuban 5 released, not that they will only release Gross in exchange for the Cuban 5. Nothing has changed about Cuba’s internal calculations.

### They Say: “Other Actors Will Secure Gross’s Release”

#### Their evidence says other actors will try, not that they’ll succeed. Cuba wants to use Gross as leverage to get Washington to the negotiating table. They won’t give him up without improved economic relations with the U.S. — that’s Smith and Sweig.

# Different Package Version vs. QPQ Affs

## \*\*\* NOTE

#### This version of the counterplan is not updated to include the most recent cards.

## \*\*\* 1NC

### 1NC — Alan Gross Different Package CP

#### [THE FIRST/NEXT OFF-CASE POSITION IS THE ALAN GROSS DIFFERENT PACKAGE COUNTERPLAN]

#### The United States federal government should offer to [plan] if and only if [plan’s conditions] and the Republic of Cuba releases Alan Gross.

#### The counterplan solves the case and is net-beneficial—

#### First, the U.S. should trade increased economic engagement for Gross’s release — a *quid pro quo* is key to boost relations.

Smith 12 — Wayne Smith, Director of the Cuba Program and Senior Fellow at the Center for International Policy, served as unofficial ambassador to Cuba under President Jimmy Carter, 2012 (“What Roles for Foreign Direct Investment in the New Cuban Economy?,” Transcript of a Brookings Institution Panel Discussion, December 10th, Available Online at <http://www.brookings.edu/~/media/events/2012/12/10%20cuba/20121210_cuban_economy.pdf>, Accessed 09-02-2013, p. 30-31)

MR. PICCONE: Let’s take one more. Wayne, up front here, please. [end page 30]

SPEAKER: Thank you. Back to the stalemate in which we now find ourselves with the Alan Gross case. There is growing pressure on Cuba to release Alan Gross. And good; we all want to see him released. But there’s going to have to be some kind of quid pro quo. And of course, not the Cuban 5 for Alan Gross; that’s not going to work. But what about some kind of economic arrangement that the U.S. would come up with to facilitate engagement as the quid pro quo? They want to increase trade, economic relations with us, and this would work in that direction. Isn’t there some – so far it’s really disappointing with the United States insisting that Alan Gross be released or there won’t be any movement, there won’t be any improvement in U.S.-Cuban relations. But you don’t see the United States making any effort to come up with some quid pro quo, some arrangement that would lead to his release. We need to do that, but we can do it in such a way that would facilitate economic relations between the two, if would seem to me.

\* Mr. Piccone = Ted Piccone, Senior Fellow and Deputy Director of Foreign Policy Studies at The Brookings Institution, served eight years as a senior foreign policy advisor in the Clinton Administration

#### Second, Cuba wants to use Gross as leverage to negotiate with Washington on other bilateral issues — they’ll “*say yes*” to the counterplan.

Sweig 13 — Julia E. Sweig, Nelson and David Rockefeller Senior Fellow for Latin America Studies and Director for Latin America Studies at the Council on Foreign Relations, holds an M.A. and Ph.D. from the Johns Hopkins University School of Advanced International Studies, interviewed by Robert McMahon, Editor of CFR.org, 2013 (“Talking to Cuba,” Council On Foreign Relations, January 25th, Available Online at <http://www.cfr.org/cuba/talking-cuba/p29879?cid=rss-latinamericaandthecaribbea-talking_to_cuba-012513>, Accessed 09-02-2013)

*Washington continues to point to what it says is the biggest impediment, which is the case of Alan Gross, the U.S. citizen who U.S. officials said was in Cuba to help with Internet access; Cubans say he was subverting the state. He continues to languish in Cuba. How to resolve this issue?*

Well, like governments resolve issues, they get in the room and they talk. And they put the issues on the table that are connected indirectly and intrinsically to that particular issue. By the way, the DAI (Developments Alternative International), which was Alan Gross's employer, just released the contracts (PDF) between DAI and Alan Gross, and there is a lot of information in there about the equipment that Gross brought down there and reasons why he was bringing that equipment. And that will just, unfortunately, reinforce the sense that this wasn't just benign development or benign Internet assistance.

This was part of a program funded by the U.S. government intended to destabilize the Cuban government, and the documentation really clearly shows that. And the lawsuit, now that the Gross family has filed against the State Department, also says that USAID should have trained Gross in counterintelligence. So, the way to stop this Alan Gross issue from becoming a political Frankenstein is to get in the room and settle a number of issues, including the Gross issue, including the Cuban 5 issue [five Cuban intelligence agents arrested by federal authorities in Miami in 1998 on charges of espionage], including other bilateral issues.

*Some see the case of Alan Gross as playing into a narrative that the Cubans are using this case for leverage and are not genuinely interested in justice or in properly handling this case. How do you respond to that perspective?*

Well, they are interested in using the case as leverage. President Obama, at the first Summit of the Americas he attended, pledged to open a new chapter in U.S.-Cuban relations and acknowledged that the embargo and U.S. policy had failed. Then he left in place the very policies he had inherited from George W. Bush. Some call them democracy promotions; some call them regime change—explicitly designed to destabilize Cuba. Which is very, very consistent with the bipartisan approach to Cuba over the last fifty years.

So, Gross is leverage, unfortunately, and Washington's position now seems to be, "There are lots of things we can do, but we won't do any of it until you first unilaterally release Gross." Havana's position is: "Washington has promised us things before and not done them. We have no incentive to do anything unilaterally because once we give you what you want, neither do you." Because the status quo of domestic politics dominating this issue and perverting it and the status quo of a pretty safe and regular flow of people between Havana and Miami and a succession that is very stable in Cuba means there is very little incentive for Washington to move aggressively toward a better Cuba policy.

Havana's attempt to use Gross to launch what it calls a political dialogue, in addition to dealing with all of the myriad issues on the table, in its essence is also about pushing Washington to deal with Havana, government to government. That is sort of a deep strategic driver on this [Gross case].

\* Italicized text is the questions; brackets around “Gross case” in the last sentence is in the original article

#### Third, Gross’s continued detention is a violation of international law and human decency. Better relations with Cuba are impossible until he is released.

Washington Post 10 — Washington Post, 2010 (“Cuba's Jewish hostage,” Op-Ed, December 6th, Available Online at http://www.washingtonpost.com/wp-dyn/content/article/2010/12/06/AR2010120606357.html, Accessed 09-02-2013)

Raul Castro’s attempt to win foreign favor and investment for Cuba's moribund economy took a particularly cynical turn on Sunday, when the dictator celebrated Hanukkah with Havana's tiny Jewish community. Broadcast on state television, the event was designed to prove that the regime doesn't share the anti-Semitism of allies such as Iran and Venezuela. There was just one problem: No mention was made of Alan P. Gross, an American from Potomac who passed the holiday in a Cuban military facility, where he has been imprisoned for a year without trial because he tried to help Cuba's Jews.

Mr. Gross, a 61-year-old specialist in international development, traveled to Cuba under a contract from the State Department's Agency for International Development. His mission was to connect members of the Jewish community to the Internet, using laptops and satellite equipment, so that they could contact other Jewish communities and download information from sites such as Wikipedia. Though that is normal activity in most of the world - and Mr. Gross declared his garden-variety equipment to Cuban customs - he was arrested on Dec. 3, 2009.

Senior Cuban officials claimed that Mr. Gross, who is himself Jewish but speaks little Spanish, was sent to Cuba as a spy. Yet a year later, not a single charge has been brought against him - a violation of Cuba's laws. In that time, the contractor's health has badly deteriorated. According to his wife, he has lost 90 pounds and developed back problems that have caused partial paralysis in one leg. Several months ago, one of his daughters was diagnosed with breast cancer and is undergoing chemotherapy. Because of the loss of his income, his wife has been forced to move from their Potomac home to a small apartment in Washington.

Appeals by the State Department and congressional leaders for Mr. Gross's release on humanitarian grounds - or at least the detailing of charges against him - have fallen on deaf ears in Havana. Instead the regime appears to be intent on forcing an exchange of Mr. Gross for one or more of five Cuban intelligence agents who are serving federal prison terms after being tried and convicted on espionage charges. This makes Mr. Gross not a prisoner but a hostage - one whose continued detention is a flagrant violation of international law and human decency.

To its credit, the Obama administration has put further improvement of relations with Cuba on hold while pressing for Mr. Gross's release. A statement released Friday said the State Department had "made it very clear to the Cuban government that the continued detention of Alan Gross is a major impediment to advancing the dialogue between our two countries." Raul Castro should know that orchestrated media events like his Hanukkah celebration are no substitute for reversing this wrong.

## \*\*\* 2NC/1NR—Overview/Net-Benefit

### Global Overview/Explanation

#### Instead of trading [the plan] *only* for [the conditions] from Cuba, the U.S. should ask for more by including a *quid pro quo* for the release of Alan Gross, a U.S. citizen serving a lengthy prison term in Havana for providing internet access to the Cuban Jewish community.

#### Gross’s detention is a violation of international law and a critical barrier to improved U.S.-Cuban relations. Enacting the plan without demanding a *quid pro quo* for Gross cedes bargaining leverage — *only* the counterplan gets Gross released, reaffirms international law, and boosts relations.

### International Law Net-Benefit Overview

#### Gross's imprisonment violates international law: it is an arbitrary detention — that's Washington Post. Concessions to Cuba that don't negotiate his release signal a lack of commitment to international law.

#### Weak commitment to I-Law risks human survival — every instance is key because exceptions undermine global norms.

Charney and Danilenko 95 — Jonathan I. Charney, Professor of Law at Vanderbilt University, previously served in the Lands and Natural Resources Division of the U.S. Department of Justice, and Gennady M. Danilenko, Head of the Center for International Law in the Institute of State and Law, has held visiting professorships at the University of California-Berkeley and the University of Michigan, 1995 (“Consent and the Creation of International Law,” *Beyond Confrontation: International Law for the Post-Cold War Era*, Edited by Lori Fisler Damrosch, Gennady M. Danilenko, and Rein Mullerson, Published by Westview Press, ISBN 0813389232, p. 25)

Faced with a number of global problems affecting the interests of every human being on this planet, the international community may find that a constitutional theory based on state consent presents unacceptable obstacles to necessary solutions. Such problems relate to the global environment, weapons of mass destruction, international terrorism, and basic human rights. If all states cannot be bound by international law that addresses these problems, truly effective solutions will be impossible, and the entire community will remain at risk. A principal obstacle to such solutions is the theory that states that do not accept a norm, and particularly states that object to it, are not bound and remain free to behave as if the norm does not exist. In some situations, even a single state exception may directly undermine all potential solutions. Certainly, such an exception may encourage or even compel others to refuse to abide by it. While these interests may conflict with the consent rule, that rule has strong support in the fundamental idea that states are independent, sovereign, and autonomous.13

### They Say: “Detention Doesn’t Violate I-Law”

#### Gross’s detention violates international law — *neutral UN experts*.

Algemeiner 13 — The Algemeiner—an American Jewish newspaper, 2013 (“UN: Cuba’s Detention Of Jewish-American Alan Gross is Arbitrary, Violates International Law,” January 9th, Available Online at <http://www.algemeiner.com/2013/01/09/un-cubas-detention-of-jewish-american-alan-gross-is-arbitrary-violates-international-law/>, Accessed 09-02-2013)

The United Nations Working Group on Arbitrary Detention on Tuesday made public its opinion in the case of Jewish-American contractor Alan Gross, stating that Cuba’s detention of Gross is in fact arbitrary and calling for his immediate release.

Dec. 3, 2012 marked the three-year anniversary of Gross’s arrest. He was sentenced to a 15-year prison term for helping Cuba’s Jewish community access the Internet while he was a subcontractor for the United States Agency for International Development (USAID). Cuba convicted him of “crimes against the state.”

Gross was tried by Cuban courts that “did not exercise their function in an independent or impartial manner,” according to the UN working group.

“The tribunal should have granted Mr. Gross the benefit of being released on bail while awaiting trial, instead of keeping him in detention for more than 14 months,” the group said in its opinion.

Josefina Vidal—head of North American Affairs at the Cuban Foreign Ministry—had already revealed contents of the UN working group’s opinion on Gross in a press conference last month, but the opinion was not officially released until Tuesday.

Comprised of neutral experts from Chile, Norway, Pakistan, Senegal, and Ukraine, the UN working group issues opinions that are not binding or enforceable, but could still be significant, Gross’s attorney Jared Genser told JNS.org last October.

“Having an independent and impartial group in the United Nations saying that he’s been held in violation of international law provides a very strong political and public relations tool to put pressure on the government of Cuba to resolve the case,” Genser said.

### U.S.-Cuba Relations Net-Benefit Overview

#### Gross's detention is the main barrier to closer relations between the U.S. and Cuba. Without the counterplan, weak relations are inevitable — that's Smith, Sweig, and Washington Post. Only the counterplan creates a win-win alternative that boosts relations — the net-benefit turns the case.

Herrero 12 — Ricardo Herrero, Deputy Executive Director of the Cuba Study Group, holds a J.D. from Benjamin N. Cardozo School of Law, 2012 (“Getting Serious About Alan Gross,” *The Huffington Post*, December 27th, Available Online at http://www.huffingtonpost.com/ricardo-herrero/getting-serious-about-ala\_b\_2370767.html, Accessed 09-02-2013)

So what can be done? There are three opportunities for securing Gross' release that could also help improve relations between the U.S. and Cuba:

1. Introduce alternative terms to the negotiation. The Cubans have dictated the terms of the negotiation from day one, and hardliners in the U.S. government have seemingly been too happy to play along. However, just because the U.S. won't agree to the spy swap doesn't mean negotiations should stop there. U.S. sanctions on Cuba remain a decades-old morass of congressional actions, presidential directives and executive orders, resulting in an entrenched and inflexible foreign policy that is as incoherent as it is ineffective. There are plenty of outdated sanctions on the books that the United States could repeal or amend in exchange for Gross' release.

2. Pursue Gross' release and economic engagement concurrently. In 2011, the Obama Administration announced a shift in the focus of U.S.-Cuba policy toward empowering civil society and supporting independent economic activity. If Cuba's burgeoning private sector is to grow into a viable alternative to the Island's top-down economic system, it will need a deeper economic relationship with the American private sector. By conditioning all further efforts to engage with the Cuban people on Gross' release, we are playing by the rules of those who benefit from the prolonged confrontation and mutual isolation between the two countries. Denying these private individuals an economic relationship with the United States only serves to further delay the kind of changes that policies like Helms-Burton were ill-designed to accelerate.

3. Look to the Angel Carromero case as a model. We don't know what deal the Spanish government struck with the Cubans to secure the release of Angel Carromero, the Popular Party's pro-democracy activist who was charged with the negligent homicide of Oswaldo Payá and Harold Cepero and will now serve his sentence in Spain. What is clear is that through direct diplomacy, the Spanish have been far more successful at liberating political prisoners, democracy advocates, and businessmen from Cuban jails than any other country, all while promoting democracy inside the island through direct support to pro-democracy groups. On the other hand, our confrontational approach has only perpetuated the conflict without any progress to show for it.

The United Nations recently condemned Cuba's arbitrary detention of Alan Gross for the first time and the U.S. Embargo on Cuba for the 21st year in a row. By pivoting negotiations for Gross's release away from a spy-swap and toward win-win alternatives, both the United States and Cuba stand to gain credibility within the international community. The United States could finally pave the road to a future where it can lead an effective multilateral policy toward Cuba focused on the advancement of human rights and helping the Cuban people. Just as importantly, Alan would finally come home.

### They Say: “Plan Still Solves Relations”

#### Negotiating Gross’s release is a prerequisite to improved relations — the net-benefit turns the case.

LeoGrande and Kornbluh 11 — William M. LeoGrande, Professor in the Department of Government at the School of Public Affairs at American University specializing in Latin American politics and U.S. foreign policy toward Latin America, served on the staffs of the Democratic Policy Committee of the United States Senate and the Democratic Caucus Task Force on Central America of the United States House of Representatives, former Council on Foreign Relations International Affairs Fellow and Pew Faculty Fellow in International Affairs, holds a Ph.D. in Political Science from Syracuse University, and Peter Kornbluh, Senior Analyst and Director of the Chile Documentation Project and the Cuba Documentation Project at the National Security Archive at George Washington University, former Adjunct Assistant Professor of International and Public Affairs at Columbia University, 2011 (“A Cuban conundrum,” *Los Angeles Times*, December 6th, Available Online at http://articles.latimes.com/print/2011/dec/06/opinion/la-oe-leogrande-alangross-20111206, Accessed 09-02-2013)

Two years ago, Cuban counterintelligence officers arrested Alan P. Gross, a U.S. Agency for International Development subcontractor, as he boarded a plane in Havana for the United States. Later convicted in a closed trial of crimes against the state for smuggling sophisticated telecommunications equipment into Cuba, Gross is serving a 15-year prison sentence. Obama administration officials have declared that relations with Cuba will remain frozen until Gross is released, but the administration has not been willing to take the aggressive steps necessary to win his freedom. Gross' fate, like Cuba policy generally, is now being sacrificed to electoral politics in Florida.

Ironically, if Gross were a CIA officer, he would probably be free by now. In 2010, Washington traded 10 Russian "sleeper" agents for four Russians jailed in Moscow for spying for the West. In 1979, President Carter crafted an informal bargain in which Cuba released four CIA agents imprisoned since the 1960s, in exchange for clemency for four Puerto Rican nationalists convicted of attempting to assassinate U.S. government officials in the 1950s. The history of the Cold War is replete with such trades. The CIA takes care of its own.

But Gross did not work for the CIA. He worked — in his words, as a "trusting fool" — for a USAID contractor participating in a U.S. government-funded democracy-building program. He traveled several times to Cuba on a tourist visa carrying computers, cellphones and satellite communications technology for independent nongovernmental organizations and individuals in Cuba's Jewish community.

The Cuban government regards USAID's democracy-promotion program as subversive, geared to foment regime change. It arrested Gross, a bit player in this larger diplomatic drama, to send Washington the message that Cuba will not tolerate such actions. U.S. officials expected that once the Cubans had made their point, they would free Gross on humanitarian grounds. But that hasn't happened. As Foreign Minister Bruno Rodriguez told the New York Times in September, any humanitarian release would have to be based on "reciprocity."

By that, Havana means the release of the so-called Cuban Five — five intelligence officers dispatched to the United States in the 1990s to spy on militant anti-Castro groups in the Cuban American community and imprisoned here since 1998. Their prolonged incarceration is a cause celebre in Cuba, and one can only assume that Cuban security officials are just as intent on looking after their own as are intelligence agencies everywhere.

When Jimmy Carter traveled to Cuba in March, his hosts floated the idea of an informal swap modeled on the release of the CIA agents and Puerto Rican nationalists in 1979. Carter has publicly called for the release of both Gross and the Cuban Five, albeit without linking the cases.

Thus far, however, the Obama administration has been unwilling to even consider such an exchange because of the inflammatory politics of the Cuban Five case in Miami's Cuban American community. When former New Mexico Gov. Bill Richardson went to Havana in September hoping to negotiate Gross' release, the State Department gave him only a meager list of reciprocal U.S. actions to offer. The Cubans indignantly refused to let Richardson even meet with Gross.

If Obama's political advisors think that refusing to trade the Cuban Five for Gross will insulate the president from political heat on the issue, they don't know south Florida. Republicans are already referring to Gross as a "hostage" and excoriating Obama for not forcing Cuba (somehow) to release him. From a strictly political calculus, Obama would be better off securing Gross' release and getting the issue off the electoral agenda.

But the real concern ought to be safeguarding Gross' well-being by finding an expeditious path to win his freedom. At present, the administration has put itself in a Catch-22: It won't take any further initiatives to improve relations while Gross remains in jail, but the poor state of relations with Cuba is the main obstacle to his release. Based on the lessons of previous prisoner releases and successful negotiations with Cuba, the administration needs to take a more proactive approach.

### Politics Net-Benefit Overview

#### The Politics DA is a net-benefit because the counterplan softens the political blow of working with Cuba — Republicans are demanding that Obama secure Gross’s release.

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### Tie-Breaker Net-Benefit Overview

#### Presumption is strongly neg — if it’s likely that Cuba will agree to the QPQ, choose the counterplan *even if* we don’t win a large net-benefit. The release of Gross is better than his continued imprisonment — he deserves to come home to his family, not die in a Cuban jail because he helped people use Wikipedia. Human decency *is* a real impact.

## \*\*\* 2NC/1NR—Competition/Theory

### They Say: “Permute – Do Both”

#### 1. The perm gives away bargaining leverage—Cuba won’t release Gross if they’ve already received a U.S. concession. The permutation gives Cuba the chance to “say yes” to an offer that keeps Gross in prison.

#### 2. Guarantees weaker condition — Cuba will choose minimum QPQ. Simultaneous offer destroys negotiating leverage.

#### 3. Aff model *wrong* — competition derives from the *offer*, not the *outcome*. Conflation wrecks rigorous policy comparison — engagement is a question of *means*, not *ends*.

Resnick 1 — Evan Resnick, Ph.D. Candidate in Political Science at Columbia University, holds an M.Phil. in Political Science and an M.A. in Political Science from Columbia University, 2001 (“Defining engagement,” *Journal of International Affairs*, Volume 54, Issue 2, Spring, Available Online to Subscribing Institutions via ABI/INFORM Complete)

Engagement is an iterated process in which the sender and target state develop a relationship of increasing interdependence, culminating in the endpoint of "normalized relations" characterized by a high level of interactions across multiple domains. Engagement is a quintessential exchange relationship: the target state wants the prestige and material resources that would accrue to it from increased contacts with the sender state, while the sender state seeks to modify the domestic and/or foreign policy behavior of the target state. This deductive logic could adopt a number of different forms or strategies when deployed in practice.26 For instance, individual contacts can be established by the sender state at either a low or a high level of conditionality.27 Additionally, the sender state can achieve its objectives using engagement through any one of the following causal processes: by directly modifying the behavior of the target regime; by manipulating or reinforcing the target states' domestic balance of political power between competing factions that advocate divergent policies; or by shifting preferences at the grassroots level in the hope that this will precipitate political change from below within the target state.

This definition implies that three necessary conditions must hold for engagement to constitute an effective foreign policy instrument. First, the overall magnitude of contacts between the sender and target states must initially be low. If two states are already bound by dense contacts in multiple domains (i.e., are already in a highly interdependent relationship), engagement loses its impact as an effective policy tool. Hence, one could not reasonably invoke the possibility of the US engaging Canada or Japan in order to effect a change in either country's political behavior. Second, the material or prestige needs of the target state must be significant, as engagement derives its power from the promise that it can fulfill those needs. The greater the needs of the target state, the more amenable to engagement it is likely to be. For example, North Korea's receptivity to engagement by the US dramatically increased in the wake of the demise of its chief patron, the Soviet Union, and the near-total collapse of its national economy.28

Third, the target state must perceive the engager and the international order it represents as a potential source of the material or prestige resources it desires. This means that autarkic, revolutionary and unlimited regimes which eschew the norms and institutions of the prevailing order, such as Stalin's Soviet Union or Hitler's Germany, will not be seduced by the potential benefits of engagement.

This reformulated conceptualization avoids the pitfalls of prevailing scholarly conceptions of engagement. It considers the policy as a set of means rather than ends, does not delimit the types of states that can either engage or be engaged, explicitly encompasses contacts in multiple issue-areas, allows for the existence of multiple objectives in any given instance of engagement and, as will be shown below, permits the elucidation of multiple types of positive sanctions.

#### 4. . The U.S. should condition engagement on the Gross’s release — the plan weakens American leverage.

Walser 11 — Ray Walser, Senior Policy Analyst specializing in Latin America at The Heritage Foundation, served as a career Foreign Service officer with the U.S. Department of State for 27 years, former Visiting Professor of International Relations and Latin America Politics at the U.S. Military Academy, holds a Ph.D. from the University of North Carolina-Chapel Hill, 2011 (“A Cuban Slap on the Wrist: The Alan Gross Case,” *The Foundry*—the Heritage Foundation blog, August 8th, Available Online at http://blog.heritage.org/2011/08/08/a-cuban-slap-on-the-wrist-the-alan-gross-case/, Accessed 07-21-2013)

The Obama Administration has in recent months made efforts to improve relations with Cuba contingent upon the release of Alan P. Gross. A subcontractor for the U.S. Agency for International Development (USAID), Gross was arrested in December 2009 for making the Internet available to members of Cuba’s minuscule Jewish community. He was sentenced to 15 years in prison in March 2011. Two weeks ago, Cuba’s highest tribunal listened to an appeal of his conviction and a plea for release.

In Cuba, free circulation of ideas is forbidden. The State defines truth, not the individual. Free exchanges of information are viewed as subversive and undermining the authority of the State. A combination of siege mentality and decades-old thought control keep the island locked in the grip of the regime’s repressive informational stranglehold.

A window for potential clemency in the Gross case opened when Cuba’s highest court took up the Gross case. The court could have voided Gross’s 15-year sentence. Expectations were not high. Cuba is a country where justice is always political, and the judiciary looks over its shoulder for cues from the political hierarchy.

Fidel and Raul Castro could have used the moment to signal a modest change of heart. Or, as The Washington Post notes, they could have demonstrated that Cuba is “remotely interested in better relations with Washington.” They did not. Cuban paranoia prevailed. The court rejected Gross’ appeal. The Castro brothers opted to continue to punish Gross—now America’s most prominent political prisoner—throwing it in the face of the Obama Administration and the United States.

Cuba’s aging dictatorship, slumping economy, scattershot economic reforms and resort to acts of repression constitute a desperate spectacle. Cuba has put out the welcome mat for cancer-stricken Hugo Chávez. His health crisis looms large as Venezuela provides an indispensable lifeline of support to the regime. The role U.S. travel and remittances play in propping up the economy is taken as a given.

In the twilight of its tyranny, the Castro regime is determined to show it can still play hardball with the life and liberty of a single American citizen and show that the Obama Administration is unable to do little more than bluster.

Former diplomat and democracy expert Elliott Abrams is right: The next step for the Administration to take is to use diplomatic channels to inform the Castro brothers that unless their “clemency” is exercised, the relaxation of travel restrictions will be reversed and greater pressure will be brought on the government of Cuba.

#### 5. The U.S. should hold its ground — engagement must be *conditioned* on Gross’ release.

Donnelly 12 — Kathleen Donnelly, member of the Young Leaders Program at The Heritage Foundation, 2012 (“Three Years as Cuba’s Hostage: Freedom for Alan Gross Still Far Away,” *The Foundry*—the Heritage Foundation blog, December 4th, Available Online at http://blog.heritage.org/2012/12/04/three-years-as-cubas-hostage-freedom-for-alan-gross-still-far-away/, Accessed 07-21-2013)

The Heritage Foundation has written on the case of Gross before. On this third anniversary of his imprisonment, Americans shouldn’t forget the true injustice of Gross’s situation.

Oddly, the longer Gross is in prison, the more talk is made in favor of the U.S. being flexible with Cuba. After all, some say, Gross did violate Cuban laws, and Cuba has offered to negotiate for his release. To buy into this argument, though, is to forget who is at fault in the case.

Despite pressure to cut a deal with Cuba, the Obama Administration is right to hold its ground against Cuba. Three years into his unjust imprisonment, Gross, along with millions of Cubans, remains a victim of a repressive, totalitarian Castro regime that has held the island in its iron grip for more than half a century.

No one deserves 15 years in prison for helping to give Cubans freedoms that are considered universal. If the Castro regime wishes to gain the respect of the international community and earn a valuable position on the world stage, it should free Gross immediately and without further chicanery.

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### They Say: “Permute – Do CP”

#### 1. Functionally impossible — the counterplan effectively bans the plan by taking the initial offer off the table. Starting negotiations on basis of plan *foregoes the possibility* of starting negotiations on basis of counterplan.

#### 2. Neg offer is plan-minus — [quid] occurs in more circumstances if *plan* than if *counterplan*.

#### 3. Textual competition *unnecessary* — texts are policy shorthand. Wording debates are unproductive and crowd-out substance — policy comparison is more valuable than semantics.

### They Say: “Add-A-Condition CPs Bad”

#### 1. Counterplan is a different package, not an “added” condition — it proposes a more limited offer that subtracts from the plan.

#### 2. *Aff* choice — plan can specify conditional or unconditional engagement. Different QPQs are core neg ground when aff specifies — scholarly literature supports.

Nincic 11 — Miroslav Nincic, Professor of Political Science at the University of California-Davis, holds a Ph.D. in Political Science from Yale University, 2011 (“Preface,” *The Logic of Positive Engagement*, Published by Cornell University Press, ISBN 0801450063, p. vii-viii)

The failure of negative sanctions does not imply the necessary success of positive inducements, as the conditions for a favorable outcome in either case are restrictive. With respect to the latter, our starting point is a closer look at two purposes that positive incentives could serve. The first is to offer an adversary some concession intended to produce a desired counterconcession. The objective is a trade involving policy changes on the target's side; inducements offered in this spirit play out in the context of what I call the exchange model. Our task is to determine what objectives can most plausibly be attained in this fashion and what conditions bode best for success. The second aim of positive inducements is more ambitious: to change the other side's basic motivations so that bribes and punishments eventually become less necessary. The purpose is not so much to promote a trade as to catalyze a thorough overhaul of relations by altering the other side's policy priorities. Inducements offered with this purpose partake of what I call the catalytic model. I examine the logic behind the conceptions of [end page vii] positive inducements associated with these two models and the conditions for success or failure in both.

Success in the exchange model requires, above all, that inducements be of a magnitude sufficient to offset incentives to undesirable behavior on the target's part. I explain why it is often very difficult in the U.S. political context to offer concessions that are objectively sufficient, and I examine the circumstances within the target country that make it more or less receptive to an exchange of concessions—a condition of latent regime instability boding best for such receptivity.

#### 3. Functional limits — large inventory of QPQs ensures unpredictable affs unless neg can test solvency advocate evidence with a different offer. Protect neg ground — preparation already stretched thin because of country diversity and weak definitions of “economic engagement”.

## \*\*\* 2NC/1NR—Solvency

### They Say: “Cuba Says No To Conditions”

#### 1. They can’t make this argument — it takes out their case. If Cuba won’t accept conditions, they won’t accept the plan.

#### 2. Cuba wants to negotiate with the U.S. — they’re using Gross as leverage to bring the U.S. to the table. Cuba cares about improving relations, not about detaining Gross — that’s Sweig.

#### 3. Prefer our evidence — Cuba has a political incentive to overstate their opposition to negotiations. Sweig is a Latin America expert at Brookings — she can see through the spin.

#### 4. Cuba *is* willing to negotiate Gross’s release — *public statements*.

Algemeiner 12 — The Algemeiner—an American Jewish newspaper, 2012 (“Cuba Offers to Negotiate Release of American Alan Gross, Denies Poor Health,” September 13th, Available Online at <http://www.algemeiner.com/2012/09/13/cuba-offers-to-negotiate-release-of-american-alan-gross-denies-poor-health/>, Accessed 09-02-2013)

Cuba’s Foreign Ministry says the country is willing to negotiate the release of Alan Gross, the Jewish-American contract worker who was arrested in 2009 on accusations of spying, while bringing communications equipment to Cuba’s relatively small Jewish community. Gross, his family, and the United States government say Gross was in Cuba for no other reason than to supply internet access to those who don’t have it.

“Cuba reiterates its willingness to talk with the United States government to find a solution in the case of Mr. Gross and continues to await an answer,” said Josefina Vidal of who heads the Foreign Ministry’s Office of North American Affairs.

The development in one of the most contentious matters between the United States and Cuba at the moment, comes just days after Mr Gross’s wife said her husband’s health is deteriorating rapidly.

#### 5. The offer *itself* convinces Cuba to say yes — they want the U.S. to make a good-faith show of respect.

French 11 — Anya Landau French, Editor of the *Havana Note*—a a group blog covering the social, cultural, political, military and economic dimensions of US-Cuba relations sponsored by The Center for International Policy, former International Trade Advisor to Chairman Max Baucus of the Senate Finance Committee, holds an M.A. in International Education from the George Washington University, 2011 (“Is it time for Obama to simply ask Cuba's President Castro to free Alan Gross?,” *Latin America Monitor*—a *Christian Science Monitor* publication, December 2nd, Available Online at <http://www.csmonitor.com/World/Americas/Latin-America-Monitor/2011/1202/Is-it-time-for-Obama-to-simply-ask-Cuba-s-President-Castro-to-free-Alan-Gross>, Accessed 09-02-2013)

All that really leaves is good old-fashioned in-good-faith negotiations. The US and Cuba ought to be set up for that these days, after the two sides agreed two years ago to restart biannual migration talks, and to explore other mutual concerns such as direct mail service and the environment. Each side has renewed access to diplomats in each other's countries, but what’s really missing is an unmistakable and unshakeable signal from the top–perhaps on both sides–that there is a willingness to actually negotiate, to give up important, game-changing ground, even if it’s not exactly what we or they wanted.

On the US side, State Department officials have been clear that they won’t exchange five Cuban agents serving lengthy US prison terms for Gross. At best the US – allegedly – offered to let one of the Five who was released after serving some 13 years in prison complete his supervised release in Cuba, and to start “a process” to remove Cuba from the terrorism list ('a' process or 'the' process?). Judging from Cuban Parliament President Ricardo Alarcon’s scoffing reaction, the idea fell flat. " . . . I can't believe someone would seriously think that there could be a negotiation between Rene Gonzalez ... a man who was about to complete his sentence ... and a man who is just about to start serving his . . . " And if Cuba wanted to end the US government program for which Gross worked (Cuba considers it a regime change program, based as it is in legislation crafted to bring an end to the Castro government), the US shows no sign of giving that up either.

Back in the spring, former President Jimmy Carter met with Raul Castro and came away with the impression that Castro wanted to release Gross. But since then, Cuban officials have given mixed signals: Foreign Minister Bruno Rodriguez offered some, if vague, hope for a solution while Alarcon has repeatedly said that Cuba won’t be releasing him unilaterally.

If Judy Gross is right that the Obama administration’s efforts are constrained by election year politics, her husband could have a long year ahead of him. Mrs. Gross, understandably, doesn’t want to wait.

“I'd love for President Obama to pick up the telephone or send an email, and try to take the first step and say 'let's sit down to negotiate,” she says.

Now, it’s a ridiculous idea, but what if President Obama picked up the phone and called President Castro, and requested Mr. Gross’s release? Might Castro fulfill such a request made directly by a sitting US president? Aside from wanting America’s bilateral and extraterritorial trade and financial restrictions against Cuba lifted, wanting to be removed from all of the various US blacklists it feels it shouldn’t be on, wanting the Cuban Five returned, wanting the US to stop funding efforts to bring down its government, and besides simply wanting to be left alone to solve its own problems (and it has plenty of them), what Cuba wants from the United States is to be treated like a sovereign nation. When one president phones another, that surely fits the bill.

### They Say: “Cuba Says No To Releasing Gross”

#### 1. Cuba cares about improving relations, not detaining Gross. They’re using him as bargaining leverage to bring the U.S. to the table, but they’re willing to negotiate — that’s Smith and Sweig.

#### 2. Prefer our evidence — Smith was Carter’s ambassador to Cuba and one of the world’s most respected Cuba experts and Sweig is a Latin America specialist at Brookings. Only scholarly experts have credibility to discuss the regime’s underlying motivations — disregard less-qualified sources.

#### 3. Their argument doesn’t contextualize to the plan — the magnitude of the *quid* in this instance will certainly secure the *quo*. Cuba desperately needs [the plan] — it’s a huge U.S. concession. Releasing Gross in exchange for such a large concession is a no-brainer for the Castros — *especially* when they’re already willing to give up [aff quo(s)].

#### 4. Cuba will agree to the swap for economic reasons — they need U.S. engagement.

Piccone 12 — Ted Piccone, Senior Fellow and Deputy Director of Foreign Policy Studies at The Brookings Institution, served eight years as a senior foreign policy advisor in the Clinton Administration, 2012 (“What Roles for Foreign Direct Investment in the New Cuban Economy?,” Transcript of a Brookings Institution Panel Discussion, December 10th, Available Online at <http://www.brookings.edu/~/media/events/2012/12/10%20cuba/20121210_cuban_economy.pdf>, Accessed 09-02-2013, p. 24-25)

On the negative sides, pretty much since then any further progress has been frozen largely because of the arrest of a USAID contractor named Alan Gross -- I’m sure you’ve heard of this case -- which is getting a tremendous amount of attention lately. And I don’t know if anyone has been noticing, but the U.S. Senate just adopted a resolution condemning the arrest, calling for his immediate release. Secretary Clinton has just issued a videotape Q&A in which she calls Alan Gross a political prisoner. The U.N. working group on arbitrary detention has declared the detention of Alan Gross to be arbitrary and that he should be released. And folks here in Washington, particularly on the Hill who were moderately open or friends of a new approach to Cuba, are starting to turn away from that position. And so I think the pressure is really on Cuba to start looking differently at this case.

Up until now it’s been a matter of trying to get a swap going with five Cubans who were arrested in the United States and tried on espionage charges and have in some of those cases very long prison terms still to serve. And this has been tabled for some time now as a possible exchange, which I think for most of us who have worked in the U.S. government and understand the way our legal system works, it’s really not in the cards. And Secretary Clinton made that very clear in her last interview. [end page 24]

So I think the pressure is on to come up with some new formulas to get past this case. I think both governments recognize that they’ve dug themselves into a hole, painted themselves into a corner and need to get out of it, and the economic opportunities probably provide a way out of this dilemma because I think if you look at it from the point of view of traditional U.S. policy of trying to support change in Cuba, the economic reforms are really an effort, a possibility to empower the Cuban people to become more independent of the state. And this is certainly within U.S. interest, proclaimed interest.

So I think there is an opportunity given the state of the Cuban economy and the assistance that they need, and the United States’ own policy goals in supporting the Cuban people, to set forth a whole set of steps that the president could take under his executive authority, would not require congressional action but would allow the president to set forth a number of measures, for example, supporting the small business community by allowing U.S. businesses and citizens to interact with them directly through technical assistance, through pooled remittances, through actual trade that we could buy products from companies, small businesses that are certified to be small businesses independent of the state. There are a number of things that could be done to support that sector and have ramifications more broadly for – positive ramifications for our policy goals. So I wanted to mention those ideas as well.

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French 11 — Anya Landau French, Editor of the *Havana Note*—a a group blog covering the social, cultural, political, military and economic dimensions of US-Cuba relations sponsored by The Center for International Policy, former International Trade Advisor to Chairman Max Baucus of the Senate Finance Committee, holds an M.A. in International Education from the George Washington University, 2011 (“Is it time for Obama to simply ask Cuba's President Castro to free Alan Gross?,” *Latin America Monitor*—a *Christian Science Monitor* publication, December 2nd, Available Online at <http://www.csmonitor.com/World/Americas/Latin-America-Monitor/2011/1202/Is-it-time-for-Obama-to-simply-ask-Cuba-s-President-Castro-to-free-Alan-Gross>, Accessed 09-02-2013)

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“I'd love for President Obama to pick up the telephone or send an email, and try to take the first step and say 'let's sit down to negotiate,” she says.

Now, it’s a ridiculous idea, but what if President Obama picked up the phone and called President Castro, and requested Mr. Gross’s release? Might Castro fulfill such a request made directly by a sitting US president? Aside from wanting America’s bilateral and extraterritorial trade and financial restrictions against Cuba lifted, wanting to be removed from all of the various US blacklists it feels it shouldn’t be on, wanting the Cuban Five returned, wanting the US to stop funding efforts to bring down its government, and besides simply wanting to be left alone to solve its own problems (and it has plenty of them), what Cuba wants from the United States is to be treated like a sovereign nation. When one president phones another, that surely fits the bill.

#### 6. Cuba *will* give up Gross — low cost and high reward.

Alfonso 12 — Haroldo Dilla Alfonso, Research Coordinator at The Latin American School of Social Sciences in the Dominican Republic, former Researcher at the Centro de Estudios sobre America in Havana, former Pearson Fellow at the International Development Research Centre in Ottawa, former Visiting Professor at Harvard University, 2012 (“Cuba: What to do about Alan Gross?,” *Havana Times*, December 24th, Available Online at http://www.havanatimes.org/?p=84034, Accessed 09-02-2013)

Alan Gross should be released soon and unilaterally. Not because he’s innocent or because he’s some martyr of democracy, because obviously he’s not.

His case involves an agent employed by a hostile foreign government to engage in illegal operations in Cuba. His actions were in line with a US law (the embargo) whose repudiation today is one of the issues with the greatest consensus around the globe.

This was within the framework of an interventionist program that as a Cuban I oppose, because I reject everything that turns the US or any other foreign country into a domestic political actor beyond what is essential in this globalized and asymmetric world.

Speaking directly, Alan Gross should be released because that would be a very low cost but high impact gesture for generating understanding with the United States. This is because Cuba desperately needs a normal access to the US market, tourists and capital to boost its faltering economy.

Cuba also needs a normal political relationship with the US. Though this would have all the contradictions and conflicts that are expected of such an unequal relationship, it needs open channels for communications and negotiations.

If to achieve this, to begin exchanging steps in the lukewarm minuet proposed by Obama in his second term, Mr. Gross will have to be taken to the airport. It’s time to do so.

To raise this issue to the level of the five imprisoned spies (The Cuban Five) seems a serious mistake, and also a sign of political immaturity. There’s no comparison between a network of spies, some of whom have been credited with the loss of human lives, and the case of Alan Gross.

This is especially when we know that these Cuban agents, who have lost significant portions of their lives locked up, were political pieces sacrificed by Fidel Castro to maintain policies to keep alive his exhausting nationalist campaign after the return of Elian Gonzalez.

Cuba has spies imprisoned in the US with many more stripes and records than the “five heroes in the empire” about which nothing is said, simply because in the world of espionage the rule is to look to the side and find surreptitious solutions.

This isn’t a personal position. I think the American government would be doing itself a favor and one for all of us if it were to take steps towards returning the Cuban Five to the island. But it’s also time that the Cuban government understand that their relationship with the US is asymmetric.

Faced with this asymmetry, what is required is an intelligent policy that sets aside the typical bravado of a schoolyard bully to make way for a constructive and negotiated policy about the real reasons behind the dispute.

Again, Cuba requires access to the US market and to guarantee its national integrity through negotiations, which today are exposed to great fragility given in its dependence on Venezuelan oil, and the militarization and internal repression at home.

If it is needed to release Alan Gross to obtain a nation whose sovereignty rests in the national consensus, on the prosperity of its inhabitants, and the full dignity of its people, then Cuban leaders should put aside their neutered machismo, and release him.

I repeat: Having Alan Gross in prison is more costly and less promising than releasing him. Keeping him locked up is to continue pursuing the bad politics of the anti-imperialist show. Good politics suggests taking him to Havana’s Jose Marti International Airport tomorrow.

### They Say: “Cuba Will Demand The Cuban 5”

#### 1. This is only one potential *quid*, not the only potential quid. The offer of the plan is a huge concession to Havana.

#### 2. Cuba’s offer to trade Gross for the Cuban 5 demonstrates their willingness to negotiate. They want improved economic relations more than anything else and are using Gross as leverage to bring the U.S. to the table — that’s Sweig.

#### 3. Cuba won’t demand the release of the Cuban 5 — they want to negotiate for economic engagement.

CBS 12 — CBS News, 2012 (“Official: Cuba ready to talk about Gross case,” May 10th, Available Online at <http://www.cbsnews.com/8301-503543_162-57432308-503543/official-cuba-ready-to-talk-about-gross-case/>, Accessed 09-02-2013)

The Cuban government got a rare opportunity to put its position on a U.S. contractor jailed in Havana and on hostile U.S.-Cuba relations before an American audience Thursday when CNN's Wolf Blitzer interviewed a top Foreign Ministry official.

Josefina Vidal, via satellite from Havana, said that while Cuba is ready to dialogue with the U.S. about the case of Alan Gross they are not advancing any formula, such as a prisoner swap. Instead, the head of the Cuban Foreign Ministry's North America Division declared Havana wants to sit down at the negotiating table with Washington to discuss all outstanding issues in an effort to establish normal relations.

Vidal says that the U.S. demand that Cuba release Gross before it takes any steps to improve relations with the island is just a "pretext" not to do so.

The State Department reacted sharply, saying Vidal's statements only reinforce the U.S. belief that Gross is being held hostage and that there is no justification for his imprisonment.

There hasn't been diplomatic relations between the two countries for five decades, although ever since the Carter presidency they have maintained Interests Sections in each other's capitals.

Vidal was echoing the position laid out in an official letter sent to Blitzer earlier this week, saying Havana has offered to hold a "dialogue to find a humanitarian solution...on a reciprocal basis" to the case of Gross, sentenced to 15 years on charges of trying to subvert the government.

That offer provoked speculation that the Cubans were holding out to swap Gross for five Cuban imprisoned in the U.S. on spying charges for nearly 14 years. Cuba says the men were only seeking information that would help prevent terrorist actions against the island and not U.S. government secrets.

#### 4. The offer *itself* convinces Cuba to say yes — they want the U.S. to make a good-faith show of respect.

French 11 — Anya Landau French, Editor of the *Havana Note*—a a group blog covering the social, cultural, political, military and economic dimensions of US-Cuba relations sponsored by The Center for International Policy, former International Trade Advisor to Chairman Max Baucus of the Senate Finance Committee, holds an M.A. in International Education from the George Washington University, 2011 (“Is it time for Obama to simply ask Cuba's President Castro to free Alan Gross?,” *Latin America Monitor*—a *Christian Science Monitor* publication, December 2nd, Available Online at <http://www.csmonitor.com/World/Americas/Latin-America-Monitor/2011/1202/Is-it-time-for-Obama-to-simply-ask-Cuba-s-President-Castro-to-free-Alan-Gross>, Accessed 09-02-2013)

All that really leaves is good old-fashioned in-good-faith negotiations. The US and Cuba ought to be set up for that these days, after the two sides agreed two years ago to restart biannual migration talks, and to explore other mutual concerns such as direct mail service and the environment. Each side has renewed access to diplomats in each other's countries, but what’s really missing is an unmistakable and unshakeable signal from the top–perhaps on both sides–that there is a willingness to actually negotiate, to give up important, game-changing ground, even if it’s not exactly what we or they wanted.

On the US side, State Department officials have been clear that they won’t exchange five Cuban agents serving lengthy US prison terms for Gross. At best the US – allegedly – offered to let one of the Five who was released after serving some 13 years in prison complete his supervised release in Cuba, and to start “a process” to remove Cuba from the terrorism list ('a' process or 'the' process?). Judging from Cuban Parliament President Ricardo Alarcon’s scoffing reaction, the idea fell flat. " . . . I can't believe someone would seriously think that there could be a negotiation between Rene Gonzalez ... a man who was about to complete his sentence ... and a man who is just about to start serving his . . . " And if Cuba wanted to end the US government program for which Gross worked (Cuba considers it a regime change program, based as it is in legislation crafted to bring an end to the Castro government), the US shows no sign of giving that up either.

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#### 5. Cuba is willing to negotiate Gross’s release — they’ll work with the U.S. to resolve the impasse.

Algemeiner 12 — The Algemeiner—an American Jewish newspaper, 2012 (“Cuba Offers to Negotiate Release of American Alan Gross, Denies Poor Health,” September 13th, Available Online at <http://www.algemeiner.com/2012/09/13/cuba-offers-to-negotiate-release-of-american-alan-gross-denies-poor-health/>, Accessed 09-02-2013)

Cuba’s Foreign Ministry says the country is willing to negotiate the release of Alan Gross, the Jewish-American contract worker who was arrested in 2009 on accusations of spying, while bringing communications equipment to Cuba’s relatively small Jewish community. Gross, his family, and the United States government say Gross was in Cuba for no other reason than to supply internet access to those who don’t have it.

“Cuba reiterates its willingness to talk with the United States government to find a solution in the case of Mr. Gross and continues to await an answer,” said Josefina Vidal of who heads the Foreign Ministry’s Office of North American Affairs.

The development in one of the most contentious matters between the United States and Cuba at the moment, comes just days after Mr Gross’s wife said her husband’s health is deteriorating rapidly.

### They Say: “Other Actors Will Secure Gross’s Release”

#### Their evidence says other actors will try, not that they’ll succeed. Cuba wants to use Gross as leverage to get Washington to the negotiating table. They won’t give him up without improved economic relations with the U.S. — that’s Smith and Sweig.